S. Hrg. 99-816

MISCELLANEOUS CONVEYANCES, DESIGNATIONS AND ESTABLISHMENTS OF PUBLIC LANDS AND ADDITIONS TO THE NATIONAL WILD AND SCENIC RIVERS SYSTEM AND THE NATIONAL TRAILS SYSTEM

HEARING

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS, RESERVED
WATER AND RESOURCE CONSERVATION

OF THE

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

NINETY-NINTH CONGRESS

SECOND SESSION

ON

S. 977, S. 1374, S. 1413, H.R. 2067
S. 1542, S. 1946, S. 2265, H.R. 3556

APRIL 11, 1986

Printed for the use of the
Committee on Energy and Natural Resources

U.S. GOVERNMENT PRINTING OFFICE
63-325 O WASHINGTON : 1986

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S311-52

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MISCELLANEOUS CONVEYANCES, DESIGNATIONS AND ESTABLISHMENTS OF PUBLIC LANDS AND ADDITIONS TO THE NATIONAL WILD AND SCENIC RIVERS SYSTEM AND THE NATIONAL TRAILS SYSTEM

FRIDAY, APRIL 11, 1986

U.S. Senate, Subcommittee on Public Lands, Reserved Water and Resource Conservation, Committee on Energy and Natural Resources,

Washington, DC.

The subcommittee met, pursuant to notice, at 9:30 a.m., in room SD-366, Dirksen Senate Office Building, Hon. Malcolm Wallop presiding.

Present: Senators Wallop, Warner, Murkowski, Hecht, and Bumpers.

Also present: Tony Bevinetto, professional staff member; and Thomas B. Williams, professional staff member for the minority.

OPENING STATEMENT OF HON. MALCOLM WALLOP, A U.S. SENATOR FROM THE STATE OF WYOMING

Senator Wallop. I wish everybody good morning.

This morning the Subcommittee on Public Lands, Reserved Water and Resource Conservation will hear testimony on the following bills:

S. 977, to establish the Hennepin Canal National Heritage Corridor in the State of Illinois and for other purposes;

S. 1374, to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island;

S. 1413 and H.R. 2067, to validate certain conveyances of certain lands in the State of California that form part of the right-of-way granted by the U.S. Central Pacific Railway Co.;

S. 1542, to amend the National Trail System Act by designating the Nez Perce Trail as a component of the National Trail System;

S. 1946, to designate the west branch of the Farmington River as a study area for inclusion in the National Wild and Scenic Rivers System and for other purposes;

S. 2265, to authorize the establishment of the Burr Trail National Rural Scenic Road in the State of Utah and for other purposes;

H.R. 3556, to provide for the exchange of land for the Cape Henry Memorial Site in Fort Story, VA.

I will place a copy of each of these bills in the hearing record, along with a statement from Senator Kennedy and Senator Bingaman. The hearing record will remain open for 2 weeks after today, during which time written testimony on any of these measures may be submitted to the committee.

[The bills and statements follow:]

II

99TH CONGRESS
1ST SESSION

S. 977

To establish the Hennepin Canal National Heritage Corridor in the State of Illinois, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 23 (legislative day, APRIL 15), 1985

Mr. DIXON (for himself and Mr. SIMON) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To establish the Hennepin Canal National Heritage Corridor in the State of Illinois, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Hennepin Canal National Heritage Corridor Act".

FINDINGS; PURPOSE

SEC. 2. (a) FINDINGS.—The Congress makes the following findings:

(1) The Hennepin Canal and Parkway is the longest manmade waterway corridor in Illinois, built be-

tween 1890 and 1907 by the United States Army Corps of Engineers and operated by the corps for commercial navigation as part of an inland waterway between 1907 and 1951.

(2) The Canal was conveyed to the State of Illinois in 1970 under an agreement that Federal funds would be made available for restoration and rehabilitation.

(3) The Illinois Department of Conservation has completed a Hennepin Canal State Trail Master Management Plan for the total rehabilitation of the Canal.

(4) The majority of the Canal is listed in the National Register of Historic Places as a National Historic District offering a unique example of America's historic canals and early canal construction technology, including locks, aqueducts, highway and railroad bridges, dams, culverts, banks, seepage ditches, canal houses, and service buildings.

(5) The Canal will join with the Illinois and Michigan Canal National Heritage Corridor to form a statewide National Heritage Corridor across the width of the State of Illinois which will be used to preserve our historic heritage and to promote tourism in an area experiencing persistent high levels of unemployment and economic displacement.

(b) PURPOSE.—It is the purpose of this Act to recognize, develop, retain, and enhance, for the benefit of present and future generations, the cultural, historical, natural, recreational, and tourism resources of the Canal, while fulfilling the contractual responsibilities of the United States with the State of Illinois concerning the Canal.

ESTABLISHMENT; BOUNDARIES

SEC. 3. (a) ESTABLISHMENT.—There is established in the State of Illinois the Hennepin Canal National Heritage Corridor.

(b) BOUNDARIES.—The Canal shall consist of those lands owned by the State of Illinois which are within the Canal area generally described in the "Hennepin Canal State Trail Master Management Plan", approved February 28, 1983, and filed and available for public inspection in the offices of the State of Illinois Department of Conservation.

DEFINITION

SEC. 4. For purposes of this Act the term "Canal" means the Hennepin Canal National Heritage Corridor, as generally described in section 3(b).

○

II

99TH CONGRESS
1ST SESSION

S. 1374

To establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island.

IN THE SENATE OF THE UNITED STATES

JUNE 27 (legislative day, JUNE 26), 1985

Mr. CHAFEE introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Blackstone River Valley National Heritage Corridor Act of 1985".

FINDINGS AND PURPOSE

SEC. 2. (a) FINDINGS.—The Congress makes the following findings:

(1) The Blackstone River Valley has significance as the cradle of the American Industrial Revolution. The valley was the first to experience widespread use

of waterpower for industry. Independent entrepreneurs developed the Rhode Island system of manufacturing, employing families in the making of textiles, and other industrial goods.

(2) Because of the influence of Roger Williams and, later, the growth of transportation networks and the textile industry, the Blackstone Valley developed great ethnic and religious diversity. The cultural heritage of these groups is still preserved in the villages and cities of the Blackstone Valley.

(3) There are many historic buildings, structures, and districts remaining in the Blackstone Valley which represent the history of the birth and growth of the textile industry and the transportation revolution from land to water to railroad. In Rhode Island, there are 26 National Register Districts, including the Blackstone Canal and 13 mill villages, and 89 structures listed in the National Register. Massachusetts has 7 National Register Districts and 57 structures listed in the National Register.

(4) The corridor was once one of the most heavily industrialized regions of the Nation and has potential for further economic expansion and modernization. The area in which the corridor is located is currently experiencing high rates of unemployment and industrial mi-

gration. Establishment of the corridor as provided in this Act may provide the stimulus required to retain existing industry and to provide further industrial growth and commercial revitalization.

(5) Despite efforts by the State, political subdivisions of the State volunteer associations and private business, the cultural, historical, natural, and recreational resources of the corridor have not realized full potential. Their social value may be lost without assistance from the Federal Government.

(b) PURPOSE.—The purpose of this Act is to retain, enhance, and interpret, for the benefit and inspiration of present and future generations, the cultural, historical, recreational, and economic resources of the corridor, where feasible, consistent with industrial and economic growth.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) the term "Commission" means the Blackstone River Valley National Heritage Corridor Commission established in section 5;

(2) the term "corridor" means the Blackstone River Valley National Heritage Corridor established in section 4(a);

(3) the term "plan" means the Cultural Heritage Plan submitted to the Secretary by the Commission pursuant to section 9; and

(4) the term "Secretary" means the Secretary of the Interior.

ESTABLISHMENT OF NATIONAL HERITAGE CORRIDOR

SEC. 4. (a) ESTABLISHMENT.—To carry out the purposes of this Act, there is established the Blackstone River Valley National Heritage Corridor.

(b) BOUNDARIES.—The boundaries of the corridor shall be determined by the Commission, in consultation with the Governor of Massachusetts and the Governor of Rhode Island.

(c) ADMINISTRATION.—The corridor shall be administered in accordance with the provisions of this Act.

ESTABLISHMENT OF BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR COMMISSION

SEC. 5. There is established a commission to be known as the Blackstone River Valley National Heritage Corridor Commission which shall carry out the duties specified in section 9.

ORGANIZATION OF COMMISSION

SEC. 6. (a) MEMBERSHIP.—The Commission shall be composed of nineteen members as follows:

(1) The Director of the National Park Service, ex officio, or a delegate.

(2) The Department of Environmental Management Directors from Massachusetts and from Rhode Island.

(3) The State Historic Preservation Officers from Massachusetts and Rhode Island.

(4) The Department of Economic Development Directors from Massachusetts and Rhode Island.

(5) Four representatives of local government from Massachusetts and four from Rhode Island nominated by the Governor of their State and appointed by the Secretary, to represent the interests of local government.

(6) Two individuals, nominated by the Governor of Massachusetts and two individuals nominated by the Governor of Rhode Island appointed by the Secretary, to represent other interests each Governor deems appropriate.

A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(b) TERMS.—Members of the Commission shall be appointed for terms of three years.

(c) COMPENSATION.—Members of the Commission shall receive no pay on account of their service on the Commission, but while away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(d) CHAIRPERSON.—The chairperson of the Commission shall be elected by the members of the Commission.

(e) QUORUM.—(1) Ten members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(2) Any member of the Commission may vote by means of a signed proxy exercised by another member of the Commission, but any member so voting shall not be considered present for purposes of establishing a quorum.

(3) The affirmative vote of not less than ten members of the Commission shall be required to approve the budget of the Commission.

(f) MEETINGS.—The Commission shall meet at least quarterly at the call of the chairperson or ten of its members. Meetings of the Commission shall be subject to section 552b of title 5, United States Code (relating to open meetings).

STAFF OF COMMISSION

SEC. 7. (a) DIRECTOR AND STAFF.—(1) The Commission shall have a Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the minimum rate of basic pay payable for level GS–15 of the General Schedule.

(2) The Commission may appoint such additional staff personnel as the Commission considers appropriate and may

pay such staff at rates not to exceed the minimum rate of basic pay payable for level GS–15 of the General Schedule. Such staff may include specialists in areas such as interpretation, historic preservation, recreation, conservation, commercial and industrial development and revitalization, financing, and fundraising.

(3) Except as otherwise provided in this subsection, such Director and staff—

(A) shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(B) shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) EXPERTS AND CONSULTANTS.—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates determined by the Commission to be reasonable.

(c) STAFF OF OTHER AGENCIES.—(1) Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out the Commission's duties under section 9.

(2) The Commission may accept the services of personnel detailed from the State or any political subdivision of the State and may reimburse the State or such political subdivision for such services.

POWERS OF COMMISSION

SEC. 8. (a) HEARINGS.—(1) The Commission may, for the purpose of carrying out this Act, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) The Commission may not issue subpenas or exercise any subpena authority.

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission, if so authorized by the Commission, may take any action which the Commission is authorized to take by this Act.

(c) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) USE OF FUNDS TO OBTAIN MONEY.—The Commission may use its funds to obtain money from any source under any program or law requiring the recipient of such money to make a contribution in order to receive such money.

(f) GIFTS.—(1) Except as provided in subsection (g)(2)(B), the Commission may, for purposes of carrying out its duties, seek, accept, and dispose of gifts, bequests, or donations of money, personal property, or services, received from any source.

(2) For purposes of section 170(c) of the Internal Revenue Code of 1954, any gift to the Commission shall be deemed to be a gift to the United States.

(g) ACQUISITION OF REAL PROPERTY.—(1) Except as provided in paragraph (2) and except with respect to any leasing of facilities under subsection (c), the Commission may not acquire any real property or interest in real property.

(2) Subject to paragraph (3), the Commission may acquire real property, or interests in real property, in the corridor—

(A) by gift or devise; or

(B) by purchase from a willing seller with money which was given or bequeathed to the Commission on the condition that such money would be used to purchase real property, or interests in real property, in the corridor.

(3) Any real property or interest in real property acquired by the Commission under paragraph (2) shall be conveyed by the Commission to an appropriate public or private land managing agency, as determined by the Commission. Any such conveyance shall be made—

(A) as soon as practicable after such acquisition;

(B) without consideration; and

(C) on the condition that the real property or interest in real property so conveyed is used for public purposes.

(h) COOPERATIVE AGREEMENTS.—For purposes of carrying out the plan, the Commission may enter into cooperative agreements with the State of Massachusetts and the State of Rhode Island, with any political subdivision of each State, or with any person. Any such cooperative agreement shall, at a minimum, establish procedures for providing notice to the Commission of any action proposed by the State of Massachusetts and the State of Rhode Island, such political subdivision, or such person which may affect the implementation of the plan.

(i) ADVISORY GROUPS.—The Commission may establish such advisory groups as the Commission deems necessary to ensure open communication with, and assistance from, the State of Massachusetts and the State of Rhode Island, political subdivisions of the State of Massachusetts and the State of Rhode Island, and interested persons.

DUTIES OF COMMISSION

SEC. 9. (a) PREPARATION OF PLAN.—Within one year after the Commission conducts its first meeting, it shall submit a Cultural Heritage Plan to the Secretary for review and comment for 90 days. The plan shall be based on existing State plans, but shall coordinate those plans and present a unified historic preservation and interpretation plan for the corridor. The plan shall—

(1) define the boundaries of the National Heritage Corridor;

(2) provide an inventory which includes any property in the corridor which should be preserved, restored, managed, developed, maintained, or acquired because of its national historic or cultural significance;

(3) establish standards and criteria applicable to the construction, preservation, restoration, alteration, and use of all properties within the corridor; and

(4) develop an historic interpretation plan to interpret the history of the valley.

(b) IMPLEMENTATION OF PLAN.—(1) After review of the plan by the Secretary as provided in subsection (a), the Commission shall implement the plan. In implementing the plan, the Commissions shall give priority to actions which assist in—

(A) preserving and interpreting the historic resources of the valley;

(B) completing State and local parks in the corridor; and

(C) supporting public and private efforts in economic revitalization consistent with the goals of the Cultural Heritage Plan.

(2) Priority actions to be carried out under paragraph (1) shall include—

(A) assisting the States in appropriate preservation treatment of the Blackstone Canal;

(B) assisting the States in designing, establishing, and maintaining visitor centers and other interpretive exhibits in the corridor;

(C) encouraging private landowners adjacent to the canal or river to retain or reestablish, where possible, vegetative, or other buffers as specified in the State park plans;

(D) assisting in the enhancement of public awareness of an appreciation for the historical and architectural and geological resources and sites in the corridor;

(E) assisting the State or any local government or any nonprofit organization in the restoration of any historic building in the corridor;

(F) encouraging, by appropriate means, enhanced economic and industrial development in the corridor consistent with the goals of the plan;

(G) encouraging local governments to adopt land use policies consistent with the goals of the State park and the plan and to take actions to implement those policies; and

(H) ensuring that clear, consistent signage identifying access points and sites of interest is put in place.

TERMINATION OF COMMISSION

SEC. 10. (a) TERMINATION.—Except as provided in subsection (b), the Commission shall terminate on the day occurring five years after the date of the enactment of this Act.

(b) EXTENSION.—The life of the Commission may be extended for a period of not more than five years beginning on the day referred to in subsection (a) if, not later than one hundred and eighty days before such day—

(1) the Commission determines such extension is necessary in order to carry out the purpose of this Act;

(2) the Commission submits such proposed extension to the Committee on Interior and Insular Affairs

of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate; and

(3) the Governor of Massachusetts, the Governor of Rhode Island, and the Secretary each approve such extension.

DUTIES OF THE SECRETARY

SEC. 11. (a) PURPOSE.—To carry out the purpose of this Act, the Secretary shall—

(1) assist the Commission in preparing the Cultural Heritage Plan; and

(2) design and fabricate interpretive materials based on the Cultural Heritage Plan including—

(A) guide brochures for exploring the heritage story of the valley by automobile, train, bicycle, boat, or foot;

(B) visitor displays (including video presentations) at several locations well distributed along the corridor, including both indoor and outdoor displays; and

(C) a mobile display depicting the heritage story to be used in the park, public buildings, libraries, and schools.

(b) TECHNICAL ASSISTANCE.—The Secretary shall, upon request of the Commission, provide technical assistance to the Commission in carrying out its duties described in section 9, including recommendations concerning appropriate preservation treatment, adaptive re-use potential strategies for funding private investors, and tax advantages of rehabilitation of historic structures.

(c) DETAILS FROM INTERIOR.—For each fiscal year of the life of the Commission, the Secretary shall detail to the Commission, on a nonreimbursable basis four employees of the Department of the Interior to enable the Commission to carry out its duties under section 9.

DUTIES OF OTHER FEDERAL ENTITIES

SEC. 12. Any Federal entity conducting or supporting activities directly affecting the corridor shall—

(1) consult with the Secretary and the Commission with respect to such activities;

(2) cooperate with the Secretary and the Commission in carrying out their duties under this Act and, to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

(3) to the maximum extent practicable, conduct or support such activities in a manner which the Commission determines will not have an adverse effect on the plan.

AUTHORIZATION OF APPROPRIATIONS

SEC. 13. (a) For each fiscal year, there is authorized to be appropriated—

(1) to the Commission a sum not to exceed $500,000 to carry out the Commission's duties under this Act; and

(2) to the Secretary such sums as may be necessary to carry out the Secretary's duties under this Act.

(b) For fiscal year 1987, there is authorized to be appropriated to the Commission $2,000,000 to be used by the Commission for—

(1) purchasing buildings and land;

(2) renovating or restoring structures to serve as visitors centers or interpretive facilities for the heritage corridor; and

(3) preserving the Blackstone Canal and its associated structures.

(c) Any sum appropriated under this section shall remain available until expended.

○

II

99TH CONGRESS
1ST SESSION

S. 1413

To validate conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to the Central Pacific Railway Company.

IN THE SENATE OF THE UNITED STATES

JULY 10 (legislative day, JULY 8), 1985

Mr. WILSON introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To validate conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to the Central Pacific Railway Company.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Railroad Right-of-Way Conveyance Validation Act of 1985".

SEC. 2. VALIDATION OF CONVEYANCES.

Except as provided in section 7, the conveyances described in section 3 (involving certain lands in San Joaquin County, State of California), section 4 (involving certain lands in Sacramento County, State of California), section 5 (involving certain lands in Kings County, State of California), and section 6 (involving certain lands in Nevada County, State of California) concerning lands that form parts of the right-of-way granted by the United States to the Central Pacific Railway Company in the Act entitled "An Act to aid in the Construction of a Railroad and Telegraph Line from the Missouri River to the Pacific Ocean, and to secure to the Government the Use of the same for Postal, Military, and Other Purposes", approved July 1, 1862 (12 Stat. 489), hereby are legalized, validated, and confirmed, as far as any interest of the United States in such lands is concerned, with the same force and effect as if the land involved in each such conveyance had been held, on the date of such conveyance, under absolute fee simple title by the grantor of such land.

SEC. 3. CONVEYANCES OF LANDS IN SAN JOAQUIN COUNTY, STATE OF CALIFORNIA.

The conveyances of lands in San Joaquin County, State of California, referred to in section 2 are as follows:

(1) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and Harvey Davies and Mary E. Davies, grantees, on January 13, 1981, and recorded as instrument numbered 81013684 on March 6, 1981, in the official records of San Joaquin County, State of California;

(2) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and Gloria Martinez, Tina Marie Aldaco, and Yolanda Martinez, grantees, on January 13, 1981, and recorded as instrument numbered 81013685 on March 6, 1981, in the official records of San Joaquin County, State of California;

(3) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and Gregorio Estrada Blanco and Antonio Miranda Blanco, grantees, on January 13, 1981, and recorded as instrument numbered 81013686 on March 6, 1981, in the official records of San Joaquin County, State of California;

(4) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and Iris Fong, grantee, on January 13, 1981, and recorded as instrument numbered 81013687 on March 6, 1981, in the official records of San Joaquin County, State of California;

(5) the conveyance entered into between the Central Pacific Railway Company and the Southern Pacific Company, grantors, and Margaret Gieseke, grantee, on October 31, 1939, and recorded on February 13, 1940,

in volume 669, page 473, of the book of official records of San Joaquin County, State of California;

(6) the conveyance entered into between the Central Pacific Railway Company and the Southern Pacific Company, grantors, and Henry Meiburg and Erna Meiburg, grantees, on October 31, 1939, and recorded on February 13, 1940, in volume 669, page 476, of the book of official records of San Joaquin County, State of California;

(7) the conveyance entered into between the Central Pacific Railway Company and the Southern Pacific Company, grantors, and Frank Ward, grantee, on October 31, 1939, and recorded on February 13, 1940, in volume 669, page 474, of the book of official records of San Joaquin County, State of California;

(8) the conveyance entered into between the Central Pacific Railway Company and the Southern Pacific Company, grantors, and Frank Penny, grantee, on October 31, 1939, and recorded on February 13, 1940, in volume 676, page 275, of the book of official records of San Joaquin County, State of California;

(9) the conveyance entered into between the Central Pacific Railway Company and the Southern Pacific Company, grantors, and John B. Coughlan, grantee, on October 31, 1939, and recorded on February 13,

1940, in volume 676, page 277, of the book of official records of San Joaquin County, State of California;

(10) the conveyance entered into between the Central Pacific Railway Company and the Southern Pacific Company, grantors, and the Fabian-Grunauer Company, grantee, on January 7, 1930, and recorded on February 7, 1930, in volume 1, page 86, of the book of offical records of San Joaquin County, State of California;

(11) the conveyance entered into between the Central Pacific Railway Company and the Southern Pacific Company, grantors, and Libby McNeill and Libby, grantee, on October 31, 1928, and recorded on November 30, 1928, in volume 255, page 383, of the book of offical records of San Joaquin County, State of California;

(12) the conveyance entered into between the Central Pacific Railway Company and the Southern Pacific Company, grantors, and A. J. Hussell, grantee, on January 7, 1930, and recorded on February 13, 1930, in volume 314, page 138, of the book of offical records of San Joaquin County, State of California;

(13) the conveyance entered into between Charles Crocker, grantor, and Frank Curran, grantee, on January 8, 1880, and recorded on January 31, 1883, in

book A, volume 49, page 600, of the deeds of San Joaquin County, State of California;

(14) the conveyance entered into between the Pacific Improvement Company, grantor, and Edward Curran, grantee, on May 24, 1901, and recorded on June 26, 1901, in book A, volume 116, page 118, of the deeds of San Joaquin County, State of California, excluding that portion of such conveyance concerning lots 14 and 15 in block 15 as designated on the map entitled "Map of the Town of Tracy San Joaquin California", filed at the request of the Southern Pacific Railroad on June 29, 1892, in volume 2, page 63, of the maps and plats of San Joaquin County, State of California;

(15) the conveyance entered into between the Pacific Improvement Company, grantor, and Sarah Idelia Duffy, grantee, on December 9, 1891, and recorded on December 31, 1891, in book A, volume 75, page 59, of the deeds of San Joaquin County, State of California;

(16) the conveyance entered into between the Pacific Improvement Company, grantor, and C. A. Slack, grantee, on May 29, 1909, and recorded on November 10, 1909, in book A, volume 182, page 304, of the deeds of San Joaquin County, State of California;

(17) the conveyance entered into between the Pacific Improvement Company, grantor, and Frank Brusso, grantee, on August 23, 1911, and recorded on October 11, 1911, in book A, volume 205, page 448, of the deeds of San Joaquin County, State of California;

(18) the conveyance entered into between the Pacific Improvement Company, grantor, and Lee Chong, grantee, on September 30, 1911, and recorded on October 23, 1911, in book A, volume 205, page 471, of the deeds of San Joaquin County, State of California;

(19) the conveyance entered into between the Pacific Improvement Company, grantor, and Lee Jung, grantee, on September 30, 1911, and recorded on October 23, 1911, in book A, volume 205, page 470, of the deeds of San Joaquin County, State of California;

(20) the conveyance entered into between the Pacific Improvement Company, grantor, and Ju Wing, grantee, on January 25, 1911, and recorded on February 14, 1911, in book A, volume 201, page 105, of the deeds of San Joaquin County, State of California;

(21) the conveyance entered into between the Pacific Improvement Company, grantor, and A. Grunauer, grantee, on June 8, 1910, and recorded on June 17, 1910, in book A, volume 187, page 520, of the

deeds of San Joaquin County, State of California, excluding that portion of such conveyance concerning lots 12 and 13 in block 36 as designated on the map entitled "Map of the Town of Tracy San Joaquin California", filed at the request of the Southern Pacific Railroad on June 29, 1892, in volume 2, page 63, of the maps and plats of San Joaquin County, State of California;

(22) the conveyance entered into between the Pacific Improvement Company, grantor, and Josie Batten, grantee, on October 10, 1910, and recorded on December 5, 1910, in book A, volume 193, page 477, of the deeds of San Joaquin County, State of California;

(23) the conveyance entered into between the Pacific Improvement Company, grantor, and Frank Brusso, grantee, on March 18, 1912, and recorded on September 5, 1912, in book A, volume 211, page 459, of the deeds of San Joaquin County, State of California;

(24) the conveyance entered into between the Pacific Improvement Company, grantor, and George Leonard, grantee, on October 16, 1911, and recorded on December 7, 1911, in book A, volume 207, page

205, of the deeds of San Joaquin County, State of California;

(25) the conveyance entered into between the Pacific Improvement Company, grantor, and George Leonard, grantee, on December 12, 1911, and recorded on December 20, 1911, in book A, volume 205, page 587, of the deeds of San Joaquin County, State of California;

(26) the conveyance entered into between the Pacific Improvement Company, grantor, and Jacob Stritzinger, grantee, on February 10, 1912, and recorded on December 29, 1914, in book A, volume 250, page 377, of the deeds of San Joaquin County, State of California;

(27) the conveyance entered into between the Pacific Improvement Company, grantor, and M. R. Fothergill, grantee, on July 13, 1917, and recorded on July 29, 1917, in book A, volume 315, page 34, of the deeds of San Joaquin County, State of California;

(28) the conveyance entered into between the Pacific Improvement Company, grantor, and Miles J. Brown, J. C. Droge, and W. F. Sattler, grantees, on March 29, 1916, and recorded on April 1, 1916, in book A, volume 273, page 375, of the deeds of San

Joaquin County, State of California, excluding that portion of such conveyance concerning—

(A) lots 1 through 9, and lots 12 and 13, in block 37;

(B) lots 1 through 5 in block 38;

(C) lots 11, 12, 19, and 20 in block 45;

(D) lots 11 through 18 in block 48; and

(E) lots 15 through 18, and lots 20 through 23, in block 51;

as designated on the map entitled "Map of the Town of Tracy San Joaquin California", filed at the request of the Southern Pacific Railroad on June 29, 1892, in volume 2, page 63, of the maps and plats of San Joaquin County, State of California;

(29) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and Manuel Joseph Silva, Mary Ann Gloria Silva, and Anna I. Silva, grantees, on January 13, 1981, and recorded as instrument numbered 81013675 on March 6, 1981, in the official records of San Joaquin County, State of California;

(30) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and Ada Lotierzo, grantee, on January 13, 1981, and recorded as instrument numbered 81013677 on March

6, 1981, in the official records of San Joaquin County, State of California;

(31) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and Marie E. Wilson, grantee, on January 13, 1981, and recorded as instrument numbered 81013678 on March 6, 1981, in the official records of San Joaquin County, State of California;

(32) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and the Home Mission Board of the Southern Baptist Convention, grantee, on January 13, 1981, and recorded as instrument numbered 81013676 on March 6, 1981, in the official records of San Joaquin County, State of California;

(33) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and Jose Gutierrez and Maria Gutierrez, grantees, on January 13, 1981, and recorded as instrument numbered 81013674 on March 6, 1981, in the official records of San Joaquin County, State of California;

(34) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and Odessa Jones Manley, grantee, on January 13, 1981, and recorded as instrument numbered 81013679

on March 6, 1981, in the official records of San Joaquin County, State of California;

(35) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and William Assad, grantee, on January 13, 1981, and recorded as instrument numbered 81013680 on March 6, 1981, in the official records of San Joaquin County, State of California;

(36) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and Larry C. Fragoso, grantee, on January 13, 1981, and recorded as instrument numbered 81013681 on March 6, 1981, in the official records of San Joaquin County, State of California; and

(37) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and the Housing Authority of the County of San Joaquin, grantee, on January 13, 1981, and recorded as instrument numbered 81013682 on March 6, 1981, in the official records of San Joaquin County, State of California.

SEC. 4. CONVEYANCES OF LANDS IN SACRAMENTO COUNTY, STATE OF CALIFORNIA.

The conveyances of lands in Sacramento County, State of California, referred to in section 2 are as follows:

(1) the conveyance entered into between the Southern Pacific Company, grantor, and Walker & Donant, grantee, on February 24, 1967, and recorded as instrument numbered 13155 on March 1, 1967, in book 67-03-01, page 284, of the official records of Sacramento County, State of California; and

(2) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and Walker and Donant, grantee, on September 20, 1976, and recorded as instrument numbered 125515 on October 19, 1976, in book 7610-19, page 567, of the official records of Sacramento County, State of California.

SEC. 5. CONVEYANCE OF LAND IN KINGS COUNTY, STATE OF CALIFORNIA.

The conveyance of land in Kings County, State of California, referred to in section 2 is as follows: the conveyance entered into between the Southern Pacific Company, grantor, and the Continental Grain Company, grantee, on August 7, 1968, and recorded as instrument numbered 11974 on September 30, 1968, in book 927, page 898, of the official records of Kings County, State of California.

SEC. 6. CONVEYANCE OF LANDS IN NEVADA COUNTY, STATE OF CALIFORNIA.

The conveyance of lands in Nevada County, State of California, referred to in section 2 are as follows: the conveyance entered into between the Southern Pacific Transportation Company, grantor, and Soda Springs Station, grantee, on March 19, 1981, and recorded as instrument numbered 8107969 on March 31, 1981 in the official records of Nevada County, State of California.

SEC. 7. LIMITATIONS ON VALIDATION OF CONVEYANCES.

(a) SAVINGS CLAUSE.—Nothing in this Act shall be construed to—

(1) diminish the right-of-way referred to in section 2 to a width of less than fifty feet on each side of the center of the main track or tracks maintained by the Southern Pacific Transportation Company on the date of the enactment of this Act; or

(2) legalize, validate, or confirm, with respect to any land that is the subject of a conveyance referred to in section 3, 4, or 5, any right or title to, or interest in, such land arising out of adverse possession, prescription, or abandonment, and not confirmed by such conveyance.

(b) RESERVATION.—There is reserved to the United States all oil, coal, or other minerals in any land that forms a part of the right-of-way referred to in section 2 and is the subject of a conveyance referred to in section 3, 4, or 5, together with the right to prospect for, mine, and remove such oil, coal, or other minerals under such rules and regulations as the Secretary of the Interior may prescribe.

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II

99TH CONGRESS
1ST SESSION

H. R. 2067

IN THE SENATE OF THE UNITED STATES

DECEMBER 5 (legislative day, DECEMBER 2), 1985

Received; read twice and referred to the Committee on Energy and Natural Resources

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AN ACT

To validate conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to the Central Pacific Railway Company.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Railroad Right-of-Way Conveyance Validation Act of 1985".

SEC. 2. VALIDATION OF CONVEYANCES.

Except as provided in section 7, the conveyances described in section 3 (involving certain lands in San Joaquin County, State of California), section 4 (involving certain lands in Sacramento County, State of California), section 5 (involving certain land in Kings County, State of California), and section 6 (involving certain lands in Nevada County, State of California) concerning lands that form parts of the right-of-way granted by the United States to the Central Pacific Railway Company in the Act entitled "An Act to aid in the Construction of a Railroad and Telegraph Line from the Missouri River to the Pacific Ocean, and to secure to the Government the Use of the same for Postal, Military, and Other Purposes", approved July 1, 1862 (12 Stat. 489), hereby are legalized, validated, and confirmed, as far as any interest of the United States in such lands is concerned, with the same force and effect as if the land involved in each such conveyance had been held, on the date of such conveyance, under absolute fee simple title by the grantor of such land.

SEC. 3. CONVEYANCES OF LANDS IN SAN JOAQUIN COUNTY, STATE OF CALIFORNIA.

The conveyances of lands in San Joaquin County, State of California, referred to in section 2 are as follows:

(1) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and Harvey Davies and Mary E. Davies, grantees, on January 13, 1981, and recorded as instrument numbered 81013684 on March 6, 1981, in the official records of San Joaquin County, State of California;

(2) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and Gloria Martinez, Tina Marie Aldaco, and Yolanda Martinez, grantees, on January 13, 1981, and recorded as instrument numbered 81013685 on March 6, 1981, in the official records of San Joaquin County, State of California;

(3) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and Gregorio Estrada Blanco and Antonio Miranda Blanco, grantees, on January 13, 1981, and recorded as instrument numbered 81013686 on March 6, 1981, in the official records of San Joaquin County, State of California;

(4) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and Iris Fong, grantee, on January 13, 1981, and recorded as instrument numbered 81013687 on March 6, 1981, in the official records of San Joaquin County, State of California;

(5) the conveyance entered into between the Central Pacific Railway Company and the Southern Pacific Company, grantors, and Margaret Gieseke, grantee, on October 31, 1939, and recorded on February 13, 1940,

in volume 669, page 473, of the book of official records of San Joaquin County, State of California;

(6) the conveyance entered into between the Central Pacific Railway Company and the Southern Pacific Company, grantors, and Henry Meiburg and Erna Meiburg, grantees, on October 31, 1939, and recorded on February 13, 1940, in volume 669, page 476, of the book of official records of San Joaquin County, State of California;

(7) the conveyance entered into between the Central Pacific Railway Company and the Southern Pacific Company, grantors, and Frank Ward, grantee, on October 31, 1939, and recorded on February 13, 1940, in volume 669, page 474, of the book of official records of San Joaquin County, State of California;

(8) the conveyance entered into between the Central Pacific Railway Company and the Southern Pacific Company, grantors, and Frank Penny, grantee, on October 31, 1939, and recorded on February 13, 1940, in volume 676, page 275, of the book of official records of San Joaquin County, State of California;

(9) the conveyance entered into between the Central Pacific Railway Company and the Southern Pacific Company, grantors, and John B. Coughlan, grantee, on October 31, 1939, and recorded on February 13,

1940, in volume 676, page 277, of the book of official records of San Joaquin County, State of California;

(10) the conveyance entered into between the Central Pacific Railway Company and the Southern Pacific Company, grantors, and the Fabian-Grunauer Company, grantee, on January 7, 1930, and recorded on February 7, 1930, in volume 1, page 86, of the book of official records of San Joaquin County, State of California;

(11) the conveyance entered into between the Central Pacific Railway Company and the Southern Pacific Company, grantors, and Libby McNeill and Libby, grantee, on October 31, 1928, and recorded on November 30, 1928, in volume 255, page 383, of the book of official records of San Joaquin County, State of California;

(12) the conveyance entered into between the Central Pacific Railway Company and the Southern Pacific Company, grantors, and A. J. Hussell, grantee, on January 7, 1930, and recorded on February 13, 1930, in volume 314, page 138, of the book of official records of San Joaquin County, State of California;

(13) the conveyance entered into between Charles Crocker, grantor, and Frank Curran, grantee, on January 8, 1880, and recorded on January 31, 1883, in

book A, volume 49, page 600, of the deeds of San Joaquin County, State of California;

(14) the conveyance entered into between the Pacific Improvement Company, grantor, and Edward Curran, grantee, on May 24, 1901, and recorded on June 26, 1901, in book A, volume 116, page 118, of the deeds of San Joaquin County, State of California, excluding that portion of such conveyance concerning lots 14 and 15 in block 15 as designated on the map entitled "Map of the Town of Tracy San Joaquin California", filed at the request of the Southern Pacific Railroad on June 29, 1892, in volume 2, page 63, of the maps and plats of San Joaquin County, State of California;

(15) the conveyance entered into between the Pacific Improvement Company, grantor, and Sarah Idelia Duffy, grantee, on December 9, 1891, and recorded on December 31, 1891, in book A, volume 75, page 59, of the deeds of San Joaquin County, State of California;

(16) the conveyance entered into between the Pacific Improvement Company, grantor, and C. A. Slack, grantee, on May 29, 1909, and recorded on November 10, 1909, in book A, volume 182, page 304, of the deeds of San Joaquin County, State of California;

(17) the conveyance entered into between the Pacific Improvement Company, grantor, and Frank Brusso, grantee, on August 23, 1911, and recorded on October 11, 1911, in book A, volume 205, page 448, of the deeds of San Joaquin County, State of California;

(18) the conveyance entered into between the Pacific Improvement Company, grantor, and Lee Chong, grantee, on September 30, 1911, and recorded on October 23, 1911, in book A, volume 205, page 471, of the deeds of San Joaquin County, State of California;

(19) the conveyance entered into between the Pacific Improvement Company, grantor, and Lee Jung, grantee, on September 30, 1911, and recorded on October 23, 1911, in book A, volume 205, page 470, of the deeds of San Joaquin County, State of California;

(20) the conveyance entered into between the Pacific Improvement Company, grantor, and Ju Wing, grantee, on January 25, 1911, and recorded on February 14, 1911, in book A, volume 201, page 105, of the deeds of San Joaquin County, State of California;

(21) the conveyance entered into between the Pacific Improvement Company, grantor, and A. Grunauer, grantee, on June 8, 1910, and recorded on June 17, 1910, in book A, volume 187, page 520, of

the deeds of San Joaquin County, State of California, excluding that portion of such conveyance concerning lots 12 and 13 in block 36 as designated on the map entitled "Map of the Town of Tracy San Joaquin California", filed at the request of the Southern Pacific Railroad on June 29, 1892, in volume 2, page 63, of the maps and plats of San Joaquin County, State of California;

(22) the conveyance entered into between the Pacific Improvement Company, grantor, and Josie Batten, grantee, on October 10, 1910, and recorded on December 5, 1910, in book A, volume 193, page 477, of the deeds of San Joaquin County, State of California;

(23) the conveyance entered into between the Pacific Improvement Company, grantor, and Frank Brusso, grantee, on March 18, 1912, and recorded on September 5, 1912, in book A, volume 211, page 459, of the deeds of San Joaquin County, State of California;

(24) the conveyance entered into between the Pacific Improvement Company, grantor, and George Leonard, grantee, on October 16, 1911, and recorded on December 7, 1911, in book A, volume 207, page

205, of the deeds of San Joaquin County, State of California;

(25) the conveyance entered into between the Pacific Improvement Company, grantor, and George Leonard, grantee, on December 12, 1911, and recorded on December 20, 1911, in book A, volume 205, page 587, of the deeds of San Joaquin County, State of California;

(26) the conveyance entered into between the Pacific Improvement Company, grantor, and Jacob Stritzinger, grantee, on February 10, 1912, and recorded on December 29, 1914, in book A, volume 250, page 377, of the deeds of San Joaquin County, State of California;

(27) the conveyance entered into between the Pacific Improvement Company, grantor, and M. R. Fothergill, grantee, on July 13, 1917, and recorded on July 29, 1917, in book A, volume 315, page 34, of the deeds of San Joaquin County, State of California;

(28) the conveyance entered into between the Pacific Improvement Company, grantor, and Miles J. Brown, J. C. Droge, and W. F. Sattler, grantees, on March 29, 1916, and recorded on April 1, 1916, in book A, volume 273, page 375, of the deeds of San

Joaquin County, State of California, excluding that portion of such conveyance concerning—

(A) lots 1 through 9, and lots 12 and 13, in block 37;

(B) lots 1 through 5 in block 38;

(C) lots 11, 12, 19, and 20 in block 45;

(D) lots 11 through 18 in block 48; and

(E) lots 15 through 18, and lots 20 through 23, in block 51;

as designated on the map entitled "Map of the Town of Tracy San Joaquin California", filed at the request of the Southern Pacific Railroad on June 29, 1892, in volume 2, page 63, of the maps and plats of San Joaquin County, State of California;

(29) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and Manuel Joseph Silva, Mary Ann Gloria Silva, and Anna I. Silva, grantees, on January 13, 1981, and recorded as instrument numbered 81013675 on March 6, 1981, in the official records of San Joaquin County, State of California;

(30) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and Ada Lotierzo, grantee, on January 13, 1981, and recorded as instrument numbered 81013677 on

March 6, 1981, in the official records of San Joaquin County, State of California;

(31) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and Marie E. Wilson, grantee, on January 13, 1981, and recorded as instrument numbered 81013678 on March 6, 1981, in the official records of San Joaquin County, State of California;

(32) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and the Home Mission Board of the Southern Baptist Convention, grantee, on January 13, 1981, and recorded as instrument numbered 81013676 on March 6, 1981, in the official records of San Joaquin County, State of California;

(33) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and Jose Gutierrez and Maria Gutierrez, grantees, on January 13, 1981, and recorded as instrument numbered 81013674 on March 6, 1981, in the official records of San Joaquin County, State of California;

(34) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and Odessa Jones Manley, grantee, on January 13, 1981, and recorded as instrument numbered 81013679

on March 6, 1981, in the official records of San Joaquin County, State of California;

(35) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and William Assad, grantee, on January 13, 1981, and recorded as instrument numbered 81013680 on March 6, 1981, in the official records of San Joaquin County, State of California;

(36) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and Larry C. Fragoso, grantee, on January 13, 1981, and recorded as instrument numbered 81013681 on March 6, 1981, in the official records of San Joaquin County, State of California; and

(37) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and the Housing Authority of the County of San Joaquin, grantee, on January 13, 1981, and recorded as instrument numbered 81013682 on March 6, 1981, in the official records of San Joaquin County, State of California.

SEC. 4. CONVEYANCES OF LANDS IN SACRAMENTO COUNTY, STATE OF CALIFORNIA.

The conveyances of lands in Sacramento County, State of California, referred to in section 2 are as follows:

(1) the conveyance entered into between the Southern Pacific Company, grantor, and Walker & Donant, grantee, on February 24, 1967, and recorded as instrument numbered 13155 on March 1, 1967, in book 67–03–01, page 284, of the official records of Sacramento County, State of California;

(2) the conveyance entered into between the Southern Pacific Transportation Company, grantor, and Walker and Donant, grantee, on September 20, 1976, and recorded as instrument numbered 125515 on October 19, 1976, in book 7610–19, page 567, of the official records of Sacramento County, State of California; and

(3) the conveyance entered into between Central Pacific Railway Company, grantor, and James Keymer, grantee, on June 13, 1931, and recorded as instrument numbered 10705 on July 13, 1931, in book 359, page 1, of the official records of Sacramento County, State of California.

SEC. 5. CONVEYANCE OF LAND IN KINGS COUNTY, STATE OF CALIFORNIA.

The conveyance of land in Kings County, State of California, referred to in section 2 is as follows: the conveyance entered into between the Southern Pacific Company, grantor, and the Continental Grain Company, grantee, on August 7, 1968, and recorded as instrument numbered 11974 on September 30, 1968, in book 927, page 898, of the official records of Kings County, State of California.

SEC. 6. CONVEYANCE OF LANDS IN NEVADA COUNTY, STATE OF CALIFORNIA.

The conveyance of lands in Nevada County, State of California, referred to in section 2 are as follows: the conveyance entered into between the Southern Pacific Transportation Company, grantor, and Soda Springs Station, grantee, on March 19, 1981, and recorded as instrument numbered 81 07969 on March 31, 1981 in the official records of Nevada County, State of California.

SEC. 7. LIMITATIONS ON VALIDATION OF CONVEYANCES.

(a) SAVINGS CLAUSE.—Nothing in this Act shall be construed to—

(1) diminish the right-of-way referred to in section 2 to a width of less than fifty feet on each side of the center of the main track or tracks maintained by the Southern Pacific Transportation Company on the date of the enactment of this Act; or

(2) legalize, validate, or confirm, with respect to any land that is the subject of a conveyance referred to in section 3, 4, 5, or 6, any right or title to, or interest in, such land arising out of adverse possession, pre-

scription, or abandonment, and not confirmed by such conveyance.

(b) RESERVATION.—There is reserved to the United States all oil, coal, or other minerals in any land that forms a part of the right-of-way referred to in section 2 and is the subject of a conveyance referred to in section 3, 4, 5, or 6, together with the right to prospect for, mine, and remove such oil, coal, or other minerals under such rules and regulations as the Secretary of the Interior may prescribe.

Passed the House of Representatives December 3, 1985.

Attest: BENJAMIN J. GUTHRIE,
Clerk.

II

99th CONGRESS
1st Session

S. 1542

To amend the National Trails System Act by designating the Nez Perce (Nee-Me-Poo) Trail as a component of the National Trails System.

IN THE SENATE OF THE UNITED STATES

July 31 (legislative day, July 16), 1985

Mr. McClure (by request) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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A BILL

To amend the National Trails System Act by designating the Nez Perce (Nee-Me-Poo) Trail as a component of the National Trails System.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the National Trails System Act (82 Stat. 919), as amended, is further amended as follows: Section 5(a) is amended to insert the following new paragraph:

"(16) The Nez Perce National Historic Trail, a route of approximately eleven hundred and seventy miles extending from the vicinity of Wallowa Lake, Oregon, to Bear Paw Mountain, Montana, as generally depicted in 'Nez Perce (Nee-Me-Poo) Trail Study Report' prepared by the Department of Agriculture and dated March 1982. The report shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Washington, District of Columbia. The trail shall be administered by the Secretary of Agriculture.".

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II

99TH CONGRESS
1ST SESSION

S. 1946

To designate the West Branch of the Farmington River as a study area for inclusion in the national wild and scenic rivers system, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 13 (legislative day, DECEMBER 9), 1985

Mr. WEICKER introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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A BILL

To designate the West Branch of the Farmington River as a study area for inclusion in the national wild and scenic rivers system, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Farmington Wild and Scenic River Study Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the West Branch of the Farmington River and related land areas possess resource values of national significance, such as significant white water rapids, un-

developed lands, scenic and cultural areas, important sport fisheries, and prime agricultural lands;

(2) based on the National Rivers Inventory by the National Park Service, published in January 1982, this portion of the Farmington River is eligible for study for inclusion in the wild and scenic rivers system;

(3) the primary responsibility for protecting and enhancing these values resides with the States of Connecticut and Massachusetts and the various units of local government which have jurisdiction over the River;

(4) there is strong support among local and State officials, area residents, and river users for a concerted cooperative effort to manage the River under the jurisdiction of local government; and

(5) in view of the longstanding Federal practice of assisting States and local governments in protecting, conserving, and enhancing rivers of national significance, the United States has an interest in assisting the States of Connecticut and Massachusetts and the appropriate local governments in managing the River.

SEC. 3. WILD AND SCENIC RIVER STUDY.

(a) Study River.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding at the end thereof the following new paragraph:

"(92) FARMINGTON, WEST BRANCH, CONNECTICUT AND MASSACHUSETTS.—The segment from the intersection of New Hartford-Canton, Connecticut, townline upstream to the base of the West Branch Reservoir in Hartland, Connecticut; and the segment from the confluence with Thorp Brook in Sandisfield, Massachusetts, to Hayden Pond in Otis, Massachusetts.".

(b) STUDY.—Section 5(b) of such Act (16 U.S.C. 1276(b)) is amended by adding at the end thereof the following new paragraph:

"(7)(A) The study of the river named in paragraph (92) of subsection (a) shall be completed and the report submitted thereon not later than the end of the third fiscal year beginning after the date of the enactment of this paragraph.

"(B) In complying with subsection (c), the Secretary of the Interior shall cooperate with the Farmington River Study Committee (established under the Farmington Wild and Scenic River Study Act) and shall encourage public participation through hearings, workshops, or any other type of public involvement deemed appropriate.".

SEC 4. STUDY PROCESS.

The Farmington River Study Committee (established under section 5) shall cooperate with the Secretary of the Interior to develop resource and other information needed to determine the eligibility of the River for inclusion in the wild and scenic rivers system. Management alternatives for the River shall be included as part of the study in order to provide for as broad a range of land and water uses and scenic and recreational activities as shall be compatible with designation as a wild and scenic river. Each management alternative shall include—

(1) a statement with respect to the protection of the River and related land areas and of recreation use goals and objectives;

(2) a detailed natural, recreational, and cultural resource and land use inventory and assessment for the River and land areas;

(3) an assessment of the attitudes of riverfront landowners and local officials toward present and future management of the land and water resources of the River and related land areas;

(4) recommendations for existing and proposed land and water management to insure conservation and preservation of the River;

(5) specific guidelines for the implementation and administration of such alternative, including a clear de-

lineation of the responsibilities of the local, State, and Federal Governments;

(6) a map showing the proposed boundaries and classification of the River and related land areas;

(7) possible approaches to assure that actions by any Federal, State, or local government agency are consistent with each management alternative; and

(8) a financial strategy to identify public and private sources of revenue and assistance with respect to implementing such plan.

SEC. 5. STUDY COMMITTEE.

(a) ESTABLISHMENT AND MEMBERSHIP.—Notwithstanding the Federal Advisory Committee Act and at the earliest practicable date following the date of the enactment of this Act, there shall be established the Farmington River Study Committee (hereafter in this Act referred to as the "Committee"). Membership on the Committee shall consist of 15 members appointed as follows:

(1) one member appointed by the Secretary of the Interior;

(2) two members appointed by the Governor of the State of Connecticut, at least one of whom shall be a member of the Metropolitan District Commission;

(3) two members appointed by the Governor of the Commonwealth of Massachusetts;

(4) two members appointed by the Farmington River Watershed Association; and

(5) one member from each of the eight towns located along the West Branch of the River, each to be appointed by the governing body of the respective towns.

(b) ADMINISTRATIVE PROVISIONS.—(1) A vacancy in the Committee shall be filled in the manner in which the original appointment was made.

(2) The Chairman of the Committee shall be elected by the members of the Committee.

(3) The members of the Committee shall serve without compensation.

(c) TECHNICAL ASSISTANCE FROM THE SECRETARY FOR THE STUDY OF THE RIVER.—In cooperating with the Committee under section 5(b)(7) of the Wild and Scenic Rivers Act, the Secretary of the Interior shall provide such technical and financial assistance to the Committee as the Secretary may determine is necessary to conduct the study of the River.

(d) STATE AND LOCAL SERVICES.—The Committee may accept services and other assistance from State and local governments.

SEC. 6. DEFINITION.

As used in this Act (other than in section 3) the term "River" means the segments of the River described in paragraph (92) of section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)).

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carryout the purposes of this Act.

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II

99TH CONGRESS
2D SESSION

S. 2265

To authorize the establishment of the Burr Trail National Rural Scenic Road in the State of Utah, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 27 (legislative day, MARCH 18), 1986

Mr. GARN (for himself and Mr. HATCH) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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A BILL

To authorize the establishment of the Burr Trail National Rural Scenic Road in the State of Utah, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in order to preserve for the benefit of present and future generations a route of unique rural character through an area of outstanding scenery between Utah Highway 12 near the town of Boulder and Utah Highway 276 in Garfield County, Utah, there is hereby authorized to be established as a unit of the National Park System the Burr Trail National Rural Scenic Road (hereinafter "Road") as generally depicted on the map entitled "Boundary Map, Burr Trail National

Rural Scenic Raod" and numbered 955-80015 and dated February 1986. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(b) Upon establishment of the Road pursuant to this subsection by publication of a notice in the Federal Register, the Road shall be administered by the Secretary of the Interior (hereinafter "Secretary") through the National Park Service as a unit of the National Park System according to the provisions of the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented: *Provided*, That the Road shall not be established as a unit of the National Park System unless the Secretary has entered into a contract with the State of Utah (hereinafter "State"), and the Secretary and the State certify that adequate lands and funds are available to fulfill the purposes of this Act.

SEC. 2. (a) To help accomplish the purposes of this Act, the Secretary is authorized to construct an interpretive center in the town of Boulder, Utah.

(b) Notwithstanding any other provision of law, the Secretary shall transfer to the National Park Service public lands currently under the administration of the Bureau of Land Management for the purposes of an interpretive center, including appurtenant roads, trails, and parking: *Provided*, That the Bureau of Land Management is authorized to acquire sufficient lands for the interpretive center, including appurtenant roads, trails, and parking, under the provisions of this Act through exchange.

SEC. 3. (a)(1) As identified on the map set forth in section 1(a), the Secretary shall transfer to the National Park Service, notwithstanding any other provision of law, an average of one-hundred acres per mile of public lands under the administration of the Bureau of Land Management necessary for the Road.

(2) Notwithstanding any other provision of law, the Secretary shall transfer to the National Park Service from public lands administered by the Bureau of Land Management necessary materials for Road construction and maintenance, which materials may be made available to the State for Road construction under such terms and conditions as the Secretary deems appropriate.

(b) The Secretary is authorized to accept from the State of Utah by donation a right-of-way for the Road. The Road and its appurtenances shall average one hundred acres per mile. The Secretary may accept title to the donated lands, subject to such reverters and conditions as the Secretary determines may be consistent with the construction, administration, and management of the Road.

SEC. 4. Notwithstanding any other provision of law, the Secretary shall promulgate regulations for traffic and public use of the Road: *Provided,* That notwithstanding any other provision of law, use of the Road by stock trucks, State/county/interior maintenance vehicles and equipment, and by buses that do not exceed ninety-six inches in width shall be permitted: *Provided further,* That nothing contained in this Act shall be construed to change the intent of the Act of December 18, 1971 (85 Stat. 739), as amended, or the Act of October 27, 1972 (86 Stat. 1311), as amended, and that exterior to the boundaries of Capitol Reef National Park and Glen Canyon National Recreation Area grazing allotments and livestock trailing shall continue under the terms of agreements entered into with the Secretary: *And provided further,* That nothing in this Act shall be construed to limit the use of and enjoyment by livestock owners, licensees, permittees, lessees, or others who have existing proprietary rights of use, ingress and engress to the Road.

SEC. 5. The Secretary is authorized to transfer, as a grant to the State of Utah, such funds as may be necessary and available for accomplishing the design, contracting, and construction of the Road.

SEC. 6. There is hereby authorized to be appropriated such sums as may be necessary for the purposes of this Act: *Provided,* That no funds may be expended for land acquisition.

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II

99TH CONGRESS
2D SESSION

H. R. 3556

IN THE SENATE OF THE UNITED STATES

MARCH 12 (legislative day, MARCH 10), 1986

Received; read twice and referred to the Committee on Energy and Natural Resources

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AN ACT

To provide for the exchange of land for the Cape Henry Memorial site in Fort Story, Virginia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior may transfer administrative jurisdiction over approximately 0.23 acres of land within Colonial National Historical Park, Virginia, to the Secretary of the Army, and in exchange therefor, he may accept administrative jurisdiction over a like amount of land from the Secretary of the Army, transfer of which is hereby authorized, for the purpose of relocating the Cape Henry Memorial Cross. Land over which jurisdiction is transferred to the Secretary of the Interior shall become part of Colonial National

Historical Park, and land over which jurisdiction is transferred to the Secretary of the Army shall become part of Fort Story Military Reservation.

Passed the House of Representatives March 11, 1986.

Attest: BENJAMIN J. GUTHRIE,

Clerk.

STATEMENT OF HON. EDWARD M. KENNEDY, A U.S. SENATOR FROM THE STATE OF MASSACHUSETTS

Mr. Chairman, I want to thank you and the committee for the opportunity to express my support of S. 1374, the Blackstone River Valley National Heritage Corridor Act and welcome the people from Massachusetts and Rhode Island who have traveled to Washington today.

I am pleased to cosponsor this legislation which will distinguish the Blackstone River Valley as a region of national historic significance. Designation as a National Heritage Corridor will provide increased national visibility and establish a key element in the renaissance of the Blackstone Valley—once the birthplace of America's Industrial Revolution.

This historic 46-mile region stretches across 22 cities and towns throughout Massachusetts and Rhode Island. The Blackstone River Valley region is rich in social history as it was among the first to harness water power for the textile industry of the 1800's, thereby making substantial contributions to the commercial prominence of Worcester, Massachusetts and Providence, Rhode Island. The textile industry and other manufacturing thrived in the Blackstone Valley until the 1920's when changes in technology and cheaper labor attracted the industry away from the Blackstone Valley.

The purpose of this legislation will be to increase the resources of the National Park Service and coordinate with the Commonwealth of Massachusetts and the State of Rhode Island to revitalize the Valley both economically and environmentally. The legislation proposes to establish a five-year commission to enhance a unified historic preservation and interpretation plan for the Corridor including historic restoration, canal preservation and towpath construction. Funding will be used to design and maintain visitors centers to explain the history behind the technological and cultural development of the Blackstone Valley.

I am proud that the Commonwealth of Massachusetts has lent its financial resources and expertise to this worthwhile enterprise. Investment in this project will be amply rewarded by the benefits to the Massachusetts communities from Worcester to Blackstone and into Rhode Island.

National recognition of this area will enable the citizens of Massachusetts, Rhode Island and our nation to appreciate the value of their heritage. The achievements of those people who struggled during the Industrial Revolution deserve to be memorialized so that Americans for generations to come can learn the depth of their sacrifices and the significance of their contribution to our entire nation.

STATEMENT OF HON. JEFF BINGAMAN, A U.S. SENATOR FROM THE STATE OF NEW MEXICO

I thank the chairman for holding this hearing to receive testimony on a number of public lands bills. I have a particular interest in S. 2265, a bill to authorize the designation of the Burr Trail in Southern Utah as a "National Scenic Rural Road." I am sympathetic to those who want to make improvements on this road. However, there seems to be a great deal of disagreement over whether this legislation is the most effective way to achieve this goal.

I understand that approximately $8.7 million was appropriated last year for partial paving and graveling of this road subject to authorizing legislation. This conditional appropriation was made before the Gramm-Rudman-Hollings legislation was enacted. There are some who would question whether this is an efficient use of the Park Service's dwindling resources.

In New Mexico and other states, we have seen the impacts of cuts in the operation of our park units. We see many staff positions being eliminated, visitor services curtailed, and the partial shut down of public facilities in the parks. I am interested in knowing how the National Park Service justifies the extensive nature of this project given that the Burr Trail never appeared in the NPS's multi-year, service-wide construction priority list. I also know that the extent of construction proposed in this legislation is far broader than what the Park Service Professional Staff initially recommended in preparing the 1985 draft Environmental Assessment. This more limited recommendation seemed to be a far more realistic approach of improving the road for vehicular traffic.

Aside from the budget implications of this bill, significant concerns have been raised regarding potential environmental consequences of the proposal—especially as affecting surrounding recreation areas, wilderness study areas, as well as the park itself. Even the Environmental Assessment surfaced numerous environmental issues that needed further resolution. I understand that a more comprehensive Environmental Impact Statement has not been prepared. I will be interested in knowing why the Park Service does not feel an EIS is justified in light of the issues raised in the Environmental Assessment.

One further area of concern is whether $8.7 million is sufficient to complete this project or will the NPS likely make further requests for this project. As government spending continues to be reduced in the next few years, fewer and fewer resources will be available for park protection and management. Large scale road construction projects will further erode limited funds.

Finally, in reviewing S. 2265, I am concerned by the lack of detail and specificity. Many critical issues are dealt with only in a draft contract and deed between the NPS and the State of Utah. Clearly, if the federal government is to spend $8.7 million and establish a new unit of the Park system these details should be thoroughly covered in the legislation.

I look forward to reviewing the testimony of the witnesses and to resolving some of these issues.

Senator **Wallop**. In the interest of time, I am going to ask all witnesses to limit their oral statements to 3 minutes. That is, of course, excluding colleagues and members. Additional written comments may be provided, and the entire testimony, oral and written, will be included in the record.

As we have some 40 witnesses, I am going to try to stay very closely to that, because as I understand it we may have as many as three, four, or five votes between now and noontime. In order for us to get anywhere, we are simply going to have to abide by the timeframe.

I have invited the Members of the Senate to testify in the order in which they have arrived. Senator Warner was sitting here patiently as I walked into the room 5 minutes early.

With that, Senator Warner, I welcome you.

STATEMENT OF HON. JOHN W. WARNER, A U.S. SENATOR FROM THE STATE OF VIRGINIA

Senator **Warner**. Thank you, Mr. Chairman. I will take but 1 minute in deference to the Chair and courtesies extended by the Chair and my colleagues here.

Thank you for including in this hearing H.R. 3556, providing for the exchange of land for the Cape Henry Memorial Site in Fort Story, VA. The Cape Henry Memorial Cross Site commemorates the first landing of the English colonists who went on to establish the Jamestown Colony in 1607.

In 1981 due to shoreline erosion, the cross was about to be washed out to sea. In an emergency measure, it was relocated to Department of Army land further back from the shore, behind a protective sand dune.

This legislation was introduced by my good friend and distinguished colleague, Congressman William G. Whitehurst, at the request of the superintendent of the Colonial National Historical Park.

I am not aware of any opposition to it. No costs are involved. This legislation is supported by the administration, and I ask unanimous consent that the balance of my statement be inserted in the record.

Senator **Wallop**. By all means it will be, and thank you for your testimony this morning.

[The prepared statement of Senator Warner follows:]

STATEMENT OF HON. JOHN W. WARNER, A U.S. SENATOR FROM THE STATE OF VIRGINIA

Mr. Chairman, thank you for including in this hearing H.R. 3556 providing for the exchange of land for the Cape Henry memorial site in Fort Story, VA.

The Cape Henry Memorial Cross Site commemorates the first landing of the English Colonists who went on to establish the Jamestown Colony in 1607. In 1981, due to shoreline erosion, the cross was about to be washed out to sea. As an emergency measure, it was relocated to Department of Army land farther back from the shore behind a protective dune.

The Department of the Army agreed in advance that they would exchange land with the Department of the Interior so that the National Park Service would have a site upon which to place the memorial cross. This exchange of 0.23 acres will therefore give to the National Park Service title to the land upon which the memorial cross is situated.

This legislation was introduced by my good friend and distinguished colleague, Representative G. William Whitehurst at the request of the superintendent of the Colonial National Historical Park. I am not aware of any opposition to it. No costs involved. This legislation is supported by the administration.

H.R. 3556 passed the House of Representatives on March 11, 1986 after being favorably reported by both the House Committee on Interior and Insular Affairs and the Committee on Armed Services.

Mr. Chairman, I appreciate your courtesy in including H.R. 3556 in what I know is a very busy subcommittee agenda and hope that it will be added to the agenda items for the Senate Energy and National Resources Committee in the near future. I urge my colleagues to support H.R. 3556.

Senator WALLOP. Would it be fair to say that there is no place left where the Jamestown settlers arrived? It has washed out to sea?

Senator WARNER. I think there is a scrap of land left there, Mr. Chairman. We will survive.

Senator WALLOP. The Commonwealth will survive.

Senator WARNER. The Commonwealth will survive.

Senator WALLOP. Senator Garn.

STATEMENT OF HON. JAKE GARN, A U.S SENATOR FROM THE STATE OF UTAH

Senator GARN. As chairman of two other committees, I certainly understand your problem. When you said you had 40 witnesses this morning, my heart goes out to you. I have great sympathy, and so I will simply ask unanimous consent that my statement be placed in the record. I cannot help you any more than that.

Senator WALLOP. That is an enormous help, and it is much appreciated, Senator. Thank you very much.

[The prepared statement of Senator Garn follows:]

STATEMENT BY SENATOR JAKE GARN ON S. 2265

AUTHORIZATION OF THE BURR TRAIL NATIONAL RURAL SCENIC ROAD

Mr. Chairman, thank you for providing this opportunity to express my views on the Burr Trail. The issue before the subcommittee today has evolved into something far greater than authorizing the paving of a mere 9.8 miles of an existing dirt road. To the people of southern Utah, the real question is whether or not the east-west tourist route across the state which was promised them will ever become a reality.

When legislation to create the Glen Canyon National Recreation Area was considered in the spring of 1972, the State of Utah proposed construction of a Trans-Escalante Highway from Glen Canyon City to Bullfrog Basin. The concept of providing an east-west route across southern Utah had strong support from nearly all those who testified at the 1972 hearings, although there were honest disagreements over the specific route such a road should take. As a result, the legislation authorizing the Glen Canyon NRA directed the Secretary of Interior to conduct a study of alternate road alignments to determine the most feasible route. Of the alternatives discussed at the 1972 hearings, the the State and most local officials strongly supported a tourist route across the Kaiparowits plateau, while conservationists proposed upgrading existing roads as a better way to bolster tourism in small southern Utah towns.

I would ask that the text of several statements offered during the Glen Canyon hearings on May 27, 1972, be included as part of this hearing record in order to clearly show what the people of southern Utah thought they could look forward to in exchange for their support for creation of an expanded National Park System in Southern Utah. I would like to read highlights of what representatives of three prominent environmental groups recommended as their alternatives to the Kaiparowits route. (Copies of 1972 recommended alternatives by the Escalante Wilderness Committee, Wilderness Society, and the Sierra Club are attached)

In 1974, after the legislation was enacted and Glen Canyon became a National Recreation Area, the Park Service completed its study and concluded the cost of the road across the Kaiparowits plateau to be in excess of $60 million. Mr. Chairman, the environmentalists were right. The original proposal would have cost far too much even then, and by bypassing several of the very towns whose economies the road was supposed to help, it seems, in hind sight, not to have made much sense.

But what of the other alternatives which were recommended? Last year, a beautiful new paved road from Boulder to Grover was completed. This will allow increased traffic from the Wasatch Front to travel through the town of Boulder on its way to Lake Powell. Completion of an upgraded 66 mile stretch over the Burr Trail will complete that route and also link Utah's five National Parks with the Lake Powell Ferry Boat system in the Glen Canyon National Recreation Area. For visiting tourists, this represents the best of all worlds.

I would submit that upgrading the Burr Trail through full paving or partial paving as the Director Mott's proposal envisions is exactly what environmentalists wanted in 1972. I fail to see what has changed over the past 14 years, except that southern Utahn's dependency on tourism has substantially increased as their local economies have become worse. Mr. Chairman, I should point out that environmental laws designed to protect the parks have succeeded. To date none of southern Utah's vast quantities of coal have been mined and at least three coal fired power plants have been cancelled or relocated. To my knowledge, environmental groups have opposed every single developmental project in Southern Utah over the past ten years. Usually, they argue that tourist promotion of our scenic attractions is a clean alternative to industrial development. Unfortunately, Mr. Chairman, today, they will oppose their own alternative as well.

Mr. Chairman, this bill goes a long way towards fulfilling the promise of linking Utah's five National Parks within the Grand Circle region. For the past three years I have proposed paving the entire 66 miles of the roadway because I am convinced it can be accomplished in an environmentally acceptable way. Nevertheless, I strongly support Director Mott's compromise initiative because it does provide paving of the portions of the road where safety and maintenance concerns are the greatest.

This project has the united support of all 13 southern Utah counties, our entire Congressional delegation, Utah's Governor, and all living former member of Congress and Governors.

I hope the committee will consider this proposal in its historical context so that the trust of the people of southern Utah can be regained. I ask the committee for its support and hope action on this bill can be taken in the very near future.

73

GLEN CANYON NATIONAL RECREATION AREA

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HEARINGS

BEFORE THE

SUBCOMMITTEE ON
NATIONAL PARKS AND RECREATION

OF THE

COMMITTEE ON
INTERIOR AND INSULAR AFFAIRS
HOUSE OF REPRESENTATIVES

NINETY-SECOND CONGRESS

SECOND SESSION

ON

H.R. 15073 and Related Bills

TO ESTABLISH THE GLEN CANYON NATIONAL RECREATION AREA IN THE STATES OF UTAH AND ARIZONA AND THE CANYON COUNTRY NATIONAL CONSERVATION AREA OF THE STATE OF UTAH

HEARINGS HELD IN
KANAB, UTAH, MAY 27, 1972
WASHINGTON, D.C., JUNE 8, 1972

Serial No. 92–47

Printed for the use of the
Committee on Interior and Insular Affairs

U.S. GOVERNMENT PRINTING OFFICE
82-455 WASHINGTON : 1972

prompt action as Escalante requires. In short, I would like to summarize that the —

Mr. TAYLOR. Do it in one sentence.

Miss WIDMAN. In one sentence.

Well, to make it short, we want a wilderness study for the Escalante River drainage coupled with that 2-year road study, the utilization of already existing roads which would prove much more economical for the towns in the vicinity along with the establishment of the Glen Canyon National Recreation Area.

Mr. TAYLOR. Thank you very much.

Miss WIDMAN. Thank you, gentleman.

Mr. TAYLOR. Mr. Skubitz of Kansas has a question.

Mr. SKUBITZ. Are you from this area?

Miss WIDMAN. I live in Denver, Colo., and have been in this area——

Mr. SKUBITZ. What is your profession?

Miss WIDMAN. I am a staff associate with the Wilderness Society.

Mr. SKUBITZ. Why does not the Wilderness Society move into this area rather than Denver?

Miss WIDMAN. This is our regional office. Our national office is in Washington, D.C.

Mr. TAYLOR. You would be closer to nature if you moved here.

Miss WIDMAN. I would like to very much.

(Miss Widman's statement follows:)

STATEMENT OF THE WILDERNESS SOCIETY PRESENTED BY JEAN WIDMAN

Mr Chairman, I am Jean Widman of Denver, Colorado, and I am here representing the Wilderness Society (a national conservation organization of some 70,000 members across the Nation. Approximately 2,600 of our members reside in Utah and the other states in the Four Corners area). Speaking for our 70,000 members at this particular hearing is a very exciting and significant experience for me because the Escalante Canyon country has had a profound effect on my life. It taught me about the delicate balance of living things and their dependence upon each other; it taught me to thrill at light playing on nature-painted walls, it taught me the importance of a little wren. However, by far the most cogent lesson of Escalante embodies the damage man is perpetrating on our country, in particular our Southwest. My sadness at Escalante Canyon being encroached upon by the waters of Lake Powell fired a desire to help preserve some of America's last wild places, particularly what was left of the Escalante River.

The Wilderness Society is a concept. The numbers of people associating with this concept believe that each of us has or can develop the moral courage to change our nation's life styles so as to make peace with Mother Earth. Perhaps we are blind optimists, but we believe that honest endeavor is the only hope.

The Wilderness Society wishes to commend Congressman Lloyd for his efforts to delineate and establish the Glen Canyon National Recreation Area and also Canyon Country National Conservation Area of over two million acres. Indeed this large and scenically unique section of the United States should be afforded protection of its natural and recreational resources. Extreme cautionary management by the Bureau of Land Management would be great a step forward, and the Kaiparowits Plateau, with its varied and largely unknown pre-historic archeological sites, and the Henry Mountains are deserving of such added protection.

However, The Wilderness Society, in conjunction with environmental groups here today, feels that a National Conservation Area cannot assure the ultimate and lasting protection for the magnificent, wild Escalante Canyon. While it would give the Bureau of Land Management direction and authority to manage this outstanding area, nevertheless, it would not be adequate, for that portion of the area that should be designated as wilderness, and it would not result in [illegible] tion for the Escalante Canyon area is *long* overdue. The well-known conservationist Aldo Leopold, as long ago as 1939, in a letter written to the President of The Wilderness Society, seconded a proposal which would have established the Escalante Wilderness Area. The letter, written by Hugh Calkins, Regional Conservator for the Department of Agriculture, Soil Conservation Service, also in 1939, stated in part, that the "proposed wilderness is nearly eight million acres in extent, and it is probably the largest area remaining in the United States substantially without roads of any kind." The complete letter is offered as an addendum to this statement to be included in the hearing record.

If a National Conservation Area proposal would delay designation of the Glen Canyon National Recreation Area and Escalante wilderness study, this proposal should be considered at a later time as a separate measure.

Senator Moss has exhibited foresight in his Bill S. 27 which should not be disregarded. His recommendation for a wilderness study of the Escalante cannot be approved too soon and must be implemented without delay if the River drainage is to remain in its natural state. Private interests talk of water development in this Canyon. We hope that their representatives have personally crossed the Escalante hundreds of times in a meaningful hike there and are aware that the River is not a roaring Grand Canyon, but a gentle-flowing and, at times, only a trickle of a river. Other places with more pragmatic development potential are available, and we urge exploration of them. A prominent scenic river drainage which lends itself to an ideal recreation resource in an already fast-developing area should not be sacrificed to interests that would destroy this sector of America. An Escalante Wilderness, as proposed for study in S. 27, would assuredly protect this resource and would greatly enhance the 1,285,310-acre Glen Canyon Recreation Area, also advocated in S. 27. In fact, The Wilderness Society feels that the Escalante River drainage should be managed as wilderness until such time as a wilderness study is completed.

As Senator Moss points out, more than just the waters of Lake Powell need protection. His bill would protect the lake shores from being subjected to cluttered splotches of unattractive developments. We feel that the Glen Canyon National Recreation Area encompassing some 1.2 million acres is a necessity, but not one that overrides the importance of a wilderness study for the Escalante Canyon region.

A significant clause in H.R. 15073 concerns construction of a highway from Glen Canyon City to Bullfrog Basin. This corridor would probably cross the Escalante River approximately two miles south of Stevens Arch, causing an objectionable amount of defacement to the River area, as well as to the length of lake shore involved. The corridor would slice up a magnificent undeveloped area and forever preclude its proper establishment as wilderness. A better alternative would be use of ferries to connect existing roads, rather than promoting invasion of a wilderness entity as the highway corridor suggested in H.R. 15073 would do. We encourage use and improvement of existing roads as an alternative to new roads. Roads such as Cottonwood Canyon, the Circle Cliffs road and the Burr Trail, as well as the road south from Capitol Reef to Bullfrog should be utilized. These roads would not bypass towns in southern Utah which are acutely and increasingly dependent upon tourist business. No tourist is likely to drive from the Lake to Escalante, for example, to replenish his supplies or seek shelter. Commercial areas will spring up along the Lake only to the detriment of the small towns in the vicinity. We feel that the scenic Lake Powell should have adequate and reasonable access by the people, and that such access *will* provide adequate with some improvement of existing roads—all to the benefit of the towns in the area. If necessary, alternate feasible routes should be studied before any road development is undertaken, specifically considering proposals by the National Park Service which has the expertise to plan scenic roadways. We commend Senator Moss for his foresight in recommending a two-year road study simultaneously with an Escalante Wilderness study and urge inclusion of this stipulation in a bill before the House of Representatives.

In summary, we join with the many concerned Utah citizen groups and other national conservation organizations in strongly advocating

(a) wilderness study for the Escalante River drainage, coupled with
(b) a two-year study of road alinement problems,
(c) utilization of already-existing roads, and
(d) establishment of a Glen Canyon National Recreation Area.

We stress again that authorization of the road corridor through the lower Escalante area as proposed in H.R. 15073, is highly inadvisable at this time.

In closing, I would like to leave contemporary poet Ken Jacobson's expression of deep awareness: "We are searching for a true home in an uprooted land—always trying to hear the wilderness through all the confusions."

We greatly appreciate the opportunity to have been able to present our views here today. Thank you.

COLLEGE OF AGRICULTURE,
[illegible]

cently taken out of the State-maintained road system. This route is part of the conservationists proposed canyon country parkway system.

We feel it is a better use of tax money, better use of the land and more benefits for both tourists and local residents alike. Environmentalists have proposed that a canyon country parkway system should be designated and improved where necessary.

The conservationist-proposed canyon country parkway system would be a tourist pathway that would truly link up Arches, Canyonlands, Capitol Reef, Bryce and Zion National Parks, natural bridges, and Cedar Breaks National Monuments; Glen Canyon National Recreation Area. Many State parks, scenic and historic areas, BLM sites, national forests and overlooks would also connect the local communities in need of financial aid.

The State-proposed road, the one that would be in Congressman Lloyd's bill, goes through two areas, Moab and Bullfrog Basin. Our proposed route goes through over 30 communities where there are now facilities for tourists that could be using them and spending money in the State and using the circle route to keep them within the State.

If you have any questions I will be glad to answer them.

Mr. TAYLOR. We will ask questions of the entire group at one time.

(Mr. McLellan's statement follows:)

STATEMENT OF JACK E. MCLELLAN, CHAIRMAN OF SIERRA CLUB SOUTHWEST REGIONAL CONSERVATION COMMITTEE

My name is Jack McLellan. I am chairman of the Sierra Club Southwest Regional Conservation Committee which is responsible for coordinating Sierra Club activities in Utah, Colorado, New Mexico, Arizona, Wyoming, and parts of Texas and Nevada.

The Sierra Club represents a cross section of concerned and informed residents throughout the country. We proudly call ourselves "Environmentalists" and we speak of our ideas to provide an acceptable quality of life as a "Total Environmental Concept". We are committed to the preservation, restoration, and rational use of Earth's resources.

I apprecite the opportunity to offer the views of the Sierra Club regarding the Glen Canyon national recreation area proposals. I commend Congressman Taylor and Congressman Lloyd for making it possible to have the public hearing in this beautiful red rock country. Congressman Lloyd has come under some criticism for holding the hearings as far away as possible from those environmentalists most interested in the recreation area. While I shared those concerns a bit earlier, I am now pleased with the choice and appreciate the chance to speak to you in the midst of free and inspiring wildlands.

The Colorado Plateau is one of the last remaining areas of the United States in which outstanding recreational assets are relatively unspoiled. The opportunity still exists to assure that these features will be available to future generations.

The question of road developments in southern Utah has been a subject of continuing controversy for a number of years. A comprehensive study of the total transportation needs of the areas has never been done. Such a study is badly needed. Roads will obviously form the basis for any transportation system, but the possibility of other alternative modes of travel such as ferry service on Lake Powell should not be ignored. Much of the present controversy could have been avoided if a careful, unbiased study of alternative highway routes in this region has been made. *Specific road corridors such as proposed in HR 15073 should not be adopted until such a study is completed.* Considering the highly scenic nature of this area, any roads to be constructed should be under the jurisdiction of the National Park Service which has the expertise to plan "scenic roads". A study of road alignments is provided for in all bills presently under consideration.

A wilderness study should be required for all of Glen Canyon National Recreation area and not just the Escalante portion. While the Escalante undoubtedly contains the outstanding potential wilderness in the recreation area, several other areas also deserve such consideration. A wilderness study is also needed to counterbalance the development-oriented study of road alignments. It should be conducted simultaneously with the road study and should be completed by the same deadline.

Congressman Lloyd's Glen Canyon NRA bill HR15073 is a study in contradictions. While an improvement over Lloyd's previous bill which basically included only the lake itself, the amended bill is still contradictory and unsatisfactory. Section 1 of HR15073 states that, "Lake Powell and the lands surrounding it are vital social, ecological, and economic national assets located in a relatively unspoiled region; that such lands contain valuable resources such as unparalleled scenery, open space, clean air, rivers and streams, forage for livestock, wilderness, valuable watersheds, wildlife, etc.; that these resources must be properly utilized by this and future generations to prevent air and water pollution, litter and scarring on the land, accidental and wanton destruction, and to preserve their environmental values.

The section further states:

"It is the objective of this act to provide for the planning, development, and management necessary to assure the proper and orderly use of the water-oriented recreation and scenic values of the land adjacent to Lake Powell, in Utah and Arizona, and the multiple use values of the other lands in the area of Lake Powell and Utah."

Now the contradictions become apparent. Congressman Lloyd recognizes the unique quality of Glen Canyon, recognizes that some of it does have wilderness values, wilderness potential, and yet he refuses to include the upper portion of the Escalante drainage which constitutes the most desirable piece of wilderness in the entire area.

Section 8 of the bill states that, "The State of Utah shall be allowed to construct and maintain a highway within the corridor from Glen Canyon City to Bullfrog Basin" designated on the map referred to in Section 3 of this Act. The corridor shall not exceed one million width." and the bill then goes on to define in great detail what the road shall be and who shall have the rights to do what with it. Section 1 of the bill states that, "The objective of the act is to provide for the planning, development, and management to assure proper and orderly use." Congressman Lloyd has been a great proponent of land use planning in many of his other actions. However, designating a road corridor prior to planning would seem to be an example of land use *unplanning* rather than land use *planning*. In essence, by allowing the Utah State Highway Department to build a road within the corridor, the bill is proposing a "blast now, plan later" philosophy.

The only conclusion that environmentalists can draw from the contradictions within the bill is that supporters of the proposed road are afraid to allow a balanced study of the area, realizing full well that the wilderness qualities are so unique that in an honest study the road would easily be seen as an unacceptable encroachment upon the land. We see this bill as an attempt to force the road build without proper study and without proper consideration for other uses of the land.

A 1972 survey made by the Utah State University concerning the local people's reaction to road proposals furnished some surprising results. Grand, San Juan, Garfield, Wayne, and Kane Counties were surveyed. The County Commissioners of these counties have reported the counties as solidly behind the state road proposal. The survey, however, does not support their statements. In Grand, Garfield, and Kane Counties, those surveyed were fairly well split on the voting, with the state proposed road slightly in the lead. My own experience in talking to many of the local people, is this response: "While we may never support you on your wilderness proposal, many of us are reluctantly supporting your road proposal." In Wayne County, a majority preferred a road coming from Bullfrog Basin up over the Burr Trail through the Circle Cliffs and in to Boulder, with an alternate route going over Boulder mountain. This is part of the road that we have proposed.

The San Juan County survey shows an overwhelming objection to the Lake Powell Parkway concept, wanting instead the loop coming down from Moab to [illegible] and over the Burr Trail route into Boulder—which again is part of the conservationists' proposal. The San Juan County results were the most surprising, [illegible]

Powell Parkway outside of the Road Commission itself is San Juan County Commissioner Calvin Black, who, of course, says he speaks for his constituents—a statement at odds with the survey. This is only one incident in which the residents of San Juan have voiced objections to stands that Commissioner Black has taken. It's also, interesting that in the May 15 issue of the Deseret News, a conflict between Senator Frank E. Moss and San Juan County Commissioner Calvin Black was reported. The issue was federal spending for development of facilities along Lake Powell. Black charged that Moss is not making any substantial effort to get the funding for the Utah area of Lake Powell. Moss retorted that delays in passing a bill to enlarge the Glen Canyon National Recreation area and put it under the Park Service control are impeding the spending pace. Moss accused Commissioner Black of wanting spending speeded up along the Lake to benefit his private interests there. We firmly maintain that neither Commissioner Black nor Congressman Lloyd are representing their constituents in the Glen Canyon.

Utah State University also performed a study to determine where tourists really preferred to go—a study completed in 1971. Tourists were polled as they came into Utah on 6 and 50 from Grand Junction, Colorado. They were also polled as they came into the St. George and Kanab southern entrances to the State. Studies showed that a majority of tourists coming from Colorado on Highway 6 and 50 perferred to go to the Capitol Reef area. From Capitol Reef, a majority continued on U24 to Highway 89 and on to Bryce and Zion National Parks. However, more than 15% preferred going over Boulder Mountain to get to Bryce—a rather surprising statistic since the Boulder Mountain road is a dirt road and the Highway Commission has taken it off the state-maintained road system. This route is part of the conservationists proposed Canyon Country Parkway System.

The study shows that tourists entering at the Kanab entrance were almost entirely north/south traffic coming from the Grand Canyon area and continuing through Salt Lake City on in to the Teton/Yellowstone areas. According to the study, tourists entering at St. George preferred to see Zion, Bryce, and Capitol Reef, or to the Grand Canyon and Mesa Verde areas. These statistics show the desire of the tourists to connect the Utah parks together. They show a very definite indication that the tourists wish to tie Capitol Reef, Bryce, and Zion together. The State Highway Commission has refused to make access possible between these parks. The Canyon Country Parkway System would do this.

1970 Park Service data shows that 51% of the campers at Waheap Marina were nonboaters; that only 7% of the campers at Bull Frog Basin were nonboaters and that only 3% of the campers at Hall's Crossing were nonboaters. Considering the greatly increased access to these areas and the fact that accessibility has been steadily improved, these figures would tend to indicate that these areas have little appeal for the normal siteseeing, nonboating tourist.

As a better use for tax money, better use of the land, and more benefits for both tourists and local residents, environmentalists have proposed that a Canyon Country Parkway System be designated and improved where necessary, utilizing existing roads. The millions of dollars that the unnecessary new Bullfrog to Hole-in-the-Rock highway would cost should be used to develop these roads into a scenic parkway system that would provide recreation access, give local communities a needed boost, and avoid destruction of unique wilderness values. (Please note that Attachments A, B, and C show in detail the routing of the Canyon Country System and location of the proposed Escalante Wilderness.)

The conservationist-proposed Canyon Country Parkway System would be a great "recreation way", a tourist pathway, linking up Arches, Canyonlands, Capitol Reef, Bryce, and Zion National Parks; Natural Bridges, and Cedar Breaks National Monuments; and the Glen Canyon National Recreation Area. Many state parks, scenic and historic areas, BLM sites, national forests, and overlooks would also be connected. Obviously the parkway would be a tremendous tourist attraction for Utah and an economic boon to local community now and in years to come.

Recreation and industrial tourism can always be provided in quantity on Lake Powell and on our proposed Canyon Country Parkway System; at the same time, wilderness and its incomparable values can be provided within the Escalante, the last great remnant of the wild Glen Canyon region. The Bullfrog to Hole-in-the-Rock highway would destroy this balance of recreational uses. Highways that open up the wilderness also tend to assure its rapid destruction.

The long range plan is to extend the Bullfrog–Hole-in-the-Rock highway north around Canyonlands National Park into Colorado, and south to near Page, Arizona. This "Colorado-to-Arizona Parkway" would funnel tourists from Colorado right down through Utah and into Arizona, without even going near the Utah communities most in need of financial aid. Instead of bringing tourists and money into Utah, we would be providing them with a trap door to drop through, right into Arizona.

Chief Justice William O. Douglas once said, "Highway construction must be managed by the same values as every other project that affects wild country uses. Before a sacrifice of any of the last remaining natural lands is made to the Great God Highway, all other alternatives must be considered and weighed."

The Canyon Country Parkway System is an alternative to the Lake Powell Parkway. Modestly speaking, it's an extremely logical plan. Unlike the Bullfrog–Hole-in-the-Rock highway or its extension, the Colorado to Arizona Parkway, our parkway system would provide recreation access, give local communities a needed boost, and avoid destruction of unique wilderness values, at much less cost.

Because of the many loop drive possibilities, variety of scenic interests, and access to motels, service stations, restaurants, and stores, tourists would likely spend more time and money traveling the Canyon Country Parkway System. A loop road of the Parkway System through the Circle Cliffs would provide the needed East-West route for the local people.

A tourist traveling the Canyon Country Parkway System would find incomparable scenic variety. Wild desert canyons, beautiful mountain views, Indian ruins, petrified forests, cool mountain streams, forests of ponderosa pine and aspen, stands of pinion pine and juniper, and imposing topographic forms present tremendous opportunities for enjoyment. In comparison, the Bullfrog-Hole-in-the-Rock route has little variety to offer.

Why all the controversy?—Because of a difference in values used to determine priorities, proper use of public lands, and the most efficient use of federal money. We feel that existing roads must be improved before any new roads are even considered. We feel that planning to put a road through de facto wilderness is ignoring present land use trends in our country. We feel that building the Lake Powell Parkway is a very poor use of tax money, and an inefficient way to provide economic aid to southern Utah communities.

What is the purpose of the highway from the Hole-in-the-Rock road to Glen Canyon City, its extension, the Lake Powell Parkway?—According to the Road Commission, it will open up scenic areas to the motoring public, provide access to Lake Powell marinas, provide connecting roads for the local people, and bring great quantities of tourist dollars into Utah. We question, however, whether all this would be accomplished:

(1) *Opening Up of Scenic Areas:* Nearly all segments of the proposed Lake Powell Parkway would go across the grain of the wild country. Little variety would be provided, and the scenery at 50 to 60 mph would be just a blur of sandstone and distant views. What is needed is a road with scenic variety, a road to tie together the scenic wonders of our state, not one that rips through them like a dull knife. We feel that alternate routes have not been presented by the Road Commission, when logical alternate routes do indeed exist. Mr. Lloyd's bill would close out all options presently open to determine alternates. In effect, Mr. Lloyd and the State Highway Commission are saying to the people of the U.S., "You can have this road and no other." (Blast now, plan later.)

(2) *Provide Access to Lake Powell Marinas:* Access *now exists* to all marinas on Lake Powell. If a marina is ever constructed near Hole-in-the-Rock, the Hole-in-the-Rock road can easily be paved to provide access. If marinas are ever fully constructed at Warm Creek or Last Chance Creek, roads can easily be improved to those locations. The fact remains that construction of the Lake Powell Parkway, or any of its segments, is not necessary to provide access to Lake Powell—and would be unnecessary duplication of an existing highway, the lake itself.

Much has been made of the idea that boaters want to get very quickly from one marina to another. In our opinion, boaters—many of us included—come to Lake Powell to launch boats and enjoy the water—not to pull boats from marina to marina.

Lake Powell is now and was originally meant to be a water parkway.—It connects the marinas and access roads, and provides much more interesting scenery than would the Lake Powell Parkway. To effectively use the Lake is a water parkway, why not connect the marinas with a ferry system? A ferry is now in use between Bullfrog Basin and Hall's Crossing. Ferry boats could be used to develop a unique and useful transportation system providing the boater with a way to get his car from marina to marina while he skims along in his boat, providing the tourist with a novel experience and providing the state with a profitable one. With a ferry system, real loop drive possibilities would be opened up, and Lake Powell would be used as intended.

(3) *Provide Connecting Roads for the Local People:* Hardly. The entire lake Powell Parkway goes through only one town, Moab, and passes miles from any other SE Utah town. If connecting roads are desired, why not improve the road over Boulder Mountain between Capitol Reef and Boulder, and the Burr Trail—Circle Cliffs road from near Bullfrog Basin to Boulder? Or Highway 72 from Fremont Junction to Loa, to provide a feeder line from I-70 into the Canyon country? Or the Cottonwood Canyon road, south from Cannonville to Highway 89? Or, on a larger scale, to fulfill the "Golden Circle" idea, *why not develop a parkway that connects the majority of SE Utah towns and scenic areas with one another?* Perhaps such an idea is too simple, too logical, or too inexpensive for consideration, however. Priorities seem to get scrambled once in a while in the rush to bulldoze, blast, and bridge something, someplace.

A meeting of the Five County Organization was held at Parowan, Utah, on October 1, 1965. A report was issued concerning the route favored by the Five County Organization. It indicates that at one time, this organization comprising the five counties of southwestern Utah did favor the Boulder-Burr Trail routing. The following is taken from the minutes of that meeting: "Roads—Melford Ahlstrom, reporting:

Commissioner Ahlstrom gave a report of the State Road Commission meeting held in Escalante, Utah, recently, and their efforts to determine the best road to the Bullfrog Recreation Area.

"The Roads Committee passed a Resolution, and suggested that it be approved by the full County Organization membership, and sent to our Utah Senators and representatives in Washington; D.C., State Engineers in the area; and to the Governor of Utah and State Road Commission.

"Commissioner Ahlstrom then presented the Resolution, which was seconded by Commissioner Hyrum L. Lee of Beaver County, put to a vote by Chairman Truman Bowler, and each one voted Aye.

"The approved Resolution was to request a connecting road from Bullfrog Recreational Area to the Scenic Wonders of the Color County, Bryce Canyon National Park, etc. The suggested route to be by way of Burr Trail, Circle Cliff and Boulder, Utah.

"This would open up travel from the Bullfrog Recreational Area to the Scenic Beauties of the Color Country, and to the traveling public of Southern Utah, Southern Nevada and Southern California, and be an aid in the economic development of Southwestern Utah."

(4) *Bring Quantities of Tourist Dollars to Southern Utah:* They might bring in their bulging billfolds, all right—but where are they going to spend that money?!? Literally *no facilities* exist along the state proposed parkway. Build new facilities? Why do that when people in the small southern Utah towns have invested heavily in *existing* motels, restaurants, gas stations? Makes more sense to put a parkway through the *towns where facilities are now available.* Tourists could easily drive from Grand Junction, Colo., to Page, Ariz. (or vice versa) in less than one day going through only Moab and BullFrog Basin, spending little or nothing in Utah. Our Canyon Country Parkway, on the other hand, would go through over 30 small communities. The Lake Powell Parkway, or as we prefer to call it, the "Colorado-to-Arizona" Parkway, would actually draw people away

from existing towns in need of economic aid, would funnel people away from the majority of the national parks, monuments, and other scenic areas. Good economics? For short term road builders, yes. For Utah and the people of the U.S. who would be paying taxes to destroy public lands, their lands, it is not good economics.

The road construction idea dies hard in our relatively unexploited state of Utah, where in general asphalt and cement are equated with that abstraction known as "progress". Possibly suffering from a vague feeling of neglect from the Highway Department, from the Governor, and from industry, and feeling the real or imagined isolation from the more hectic centers of activity like the Wasatch Front, many inhabitants from the southern part of Utah believe that through more roads and more industry they will come to share in the prosperity, enlightenment and happiness which they mistakenly believe prevails in the remainder of the country. An understandable paradox, and an unfortunate one.

General Omar Bradley once said, "If we are not careful, we shall leave our children a legacy of billion-dollar roads leading nowhere except to other congested places like those they left behind. We are building ourselves an asphalt treadmill and allowing the last few wild areas of our nation to disappear."

Under Department of Transportation laws, the Road Commission is required to explore and present all alternatives to a proposed project, and to ensure that extensive damage to the environment will not occur. In our opinion, the Commission has not done this. HR15073 reinforces the Road Commission's ignoring of alternatives.

At the June 11, 1969 hearings in Salt Lake City, only two people testified for the trans-Escalante road and 29 Environmentalists testified against it. Some 23 letters received by the Commission supported the highway, but 150 requested that the highway not be built. Most of these letters reflected support for the Canyon Country Parkway System proposal and for an Escalante Wilderness.

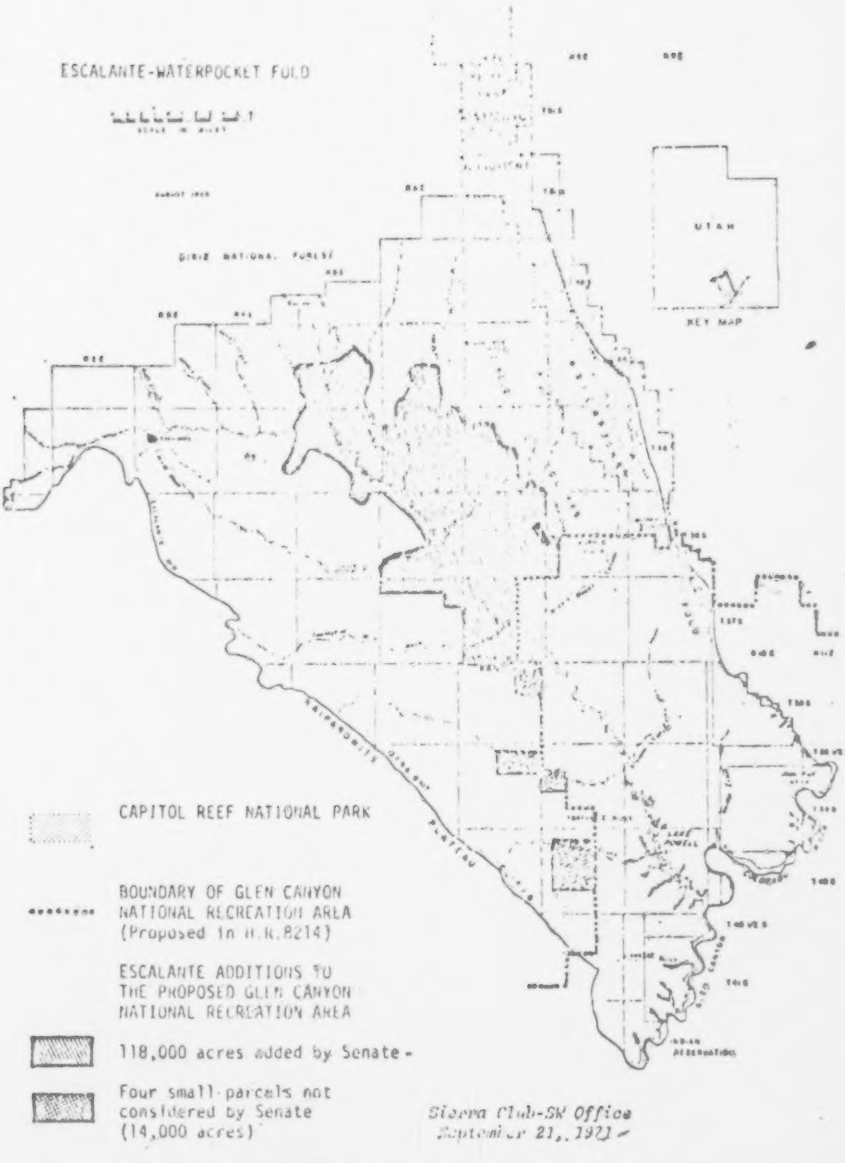
Hearings in Kanab resulted in three letters, supporting the trans-Escalante highway and its extension to Glen Canyon City, and 460 letters from all over the United States that were against the highway proposal. But the Utah Road Commission still approved the trans-Escalante road corridor. Obviously, the hearings were held only to convince people of their ideas, and not as a mechanism to receive ideas and constructive criticism about alternates from the public. There is an alternative, a most logical one, that fulfills nearly all the requirements for a good parkway that the Lake Powell Parkway seems to be missing, and that would not be detrimental to the environment. This alternative is the Canyon Country Parkway System. The new I 70 and I–15 freeways will provide rapid access for thrudriver. The CCPS provides a leisurely route for tourists, with unlimited loop tour possibilities, and ties together access roads to the marinas on Lake Powell. May I respectfully suggest that the Canyon Country Parkway System proposal be substituted for the current road provisions in HR15073.

Everyone must sooner or later realize that building roads and more roads is not always the answer—that too often what they came to see in air-conditioned comfort was destroyed in the process of getting them there. Too often "development" becomes exploitation when land much more valuable as wilderness is effectively destroyed under the proliferation of highways, mass recreation, and industrial tourism.

We can approach this beautiful, ecologically fragile area along Lake Powell with the intelligent care and love of a people that respects and values its last few remaining pockets of wild country, or we can come with bulldozers and pavement, blasting our way across them, destroying all other options to use of the land. Total land use planning must be given more than lip service. Please revise HR15073 to reflect a sincere approach to, rather than a mockery of, total land use planning.

A balance must be maintained between mass recreation and wilderness. People enjoy both. One must not be sacrificed for the other. Only two percent of all remaining public land in the United States is of wilderness quality—far less than one percent is officialy protected. The balance is sadly one-sided already. We must be very careful and wise in deciding the fate of remaining wild areas.

I appreciate the opportunity to present our viewpoint and ideas on the GCNRA proposals. Sometimes from a diversity of ideas come new and better plans. I hope that will be the case in this instance.


ESCALANTE-WATERPOCKET FOLD
SCALE IN MILES
DIXIE NATIONAL FOREST
UTAH
KEY MAP
KAIPAROWITS PLATEAU
CAPITOL REEF NATIONAL PARK
BOUNDARY OF GLEN CANYON NATIONAL RECREATION AREA (Proposed in H.R.8214)
ESCALANTE ADDITIONS TO THE PROPOSED GLEN CANYON NATIONAL RECREATION AREA
118,000 acres added by Senate
Four small parcels not considered by Senate (14,000 acres)
Sierra Club-SW Office
September 21, 1971

Mr. TAYLOR. Mr. McComb.

STATEMENT OF JOHN McCOMB, SOUTHWEST FIELD REPRESENTATIVE, SIERRA CLUB

Mr. McCOMB. I am John McComb, southwest field representative for the Sierra Club. I will limit my remarks today to a need for a wilderness review, although I do endorse the statements and comments of the other witnesses.

Someday, when the voice of reason can dominate the land, we will see that the agriculture of our country must be protected as well as the cliffs and canyons, that industry must be developed. We need all our resources, including our people. No community should be destroyed.

Mr. TAYLOR. Mr. Robert H. Hassell. On deck, Robert Gordon.

STATEMENT OF ROBERT H. HASSELL

Mr. HASSELL. Gentlemen, I find myself listed twice on your list, number 14 and number 42. I would appreciate it if I could take both slots here rather than split them if that is acceptable.

Mr. TAYLOR. We will take 42 off. You are just supposed to be listed once. That is a clerical error.

Mr. HASSELL. Fine. My name is Robert Hanks Hassell and today I am speaking to this committee in a dual capacity. First, I am speaking on behalf of the Escalante Wilderness Committee, a group of over 600 people from all walks of life and representing all sections of the country, including Utah. This group has organized out of a desire to see the precious remnants of the Glen Canyon country preserved from piecemeal development, as a haven of natural beauty for this and future generations. Second, I am testifying on behalf of myself and those of my neighbors who feel as I do that our beautiful State of Utah must not be allowed to slip into that uncertain future of unplanned development which has plagued other regions of America.

I am a lifelong resident of Utah, and I plan to make this State my permanent home.

Addressing myself first to Mr. Lloyd's bill, there is much which is meritorious in its desire to see to it that the vital planning necessary to guarantee the future of this country is done. His provision for a 2,805,000-acre national conservation area adjacent to the national recreation shows, at least on the surface, a recognition of the irreplaceable and delicate nature of the resources of this dramatic country. However, the bill as it stands, contains several fatal weaknesses which call into question whether the noble objectives it sets forth can in fact be realized.

First, in leaving most of the Escalante out of the recreation area, the last surviving fragment of a natural Glen Canyon will be left without protection. While Lake Powell is a beautiful reservoir there is no question that its artificiality cries out for an untouched complement. The Escalante is a miniature of what Glen Canyon used to be like, a living laboratory of carved sandstone and delicate greenery, showing how even in the harshest desert life can prosper. The national conservation area, which would include the Escalante, is set forth primarily as a multiple use area with provisions for the preparation of a long-term management plan. This area would presumably remain under the authority of the BLM. While there is much to be commended in the work of the BLM in managing the public domain, and many fine, dedicated people serving in this agency, its legislative mandate is clearly inadequate to insure that even the heat of management plans can be enforced. In law the BLM is primarily a land disposal agency with no real authority to prevent desecration of the land before it occurs. Under the Classification and Multiple Use Act of 1964, now expired, several areas in Utah were segregated according to specific uses. Among them were the Escalante Canyons natural area and the Paria Canyon primitive area. Presumably both classifications were intended to preserve these lands in their natural state. However, we are already seeing the construction of a transmission line from the Navajo powerplant near Page, Ariz., across the Paria Canyon, and increasing numbers of vehicles are operating in the Escalante Canyons in clear violation of the intent of the natural area classification. In truth, the BLM has no enforcement powers over its closures, particularly with respect to vehicle usage, and in areas of high interest like the Escalante Canyons, this agency is powerless to prevent permanent damage by jeeps and trailbikes to the delicate canyon floors.

A further weakness of the bill is that it gives the Secretary of the Interior the authority to change the boundaries of the two areas at will, with no minimum size for either region. While highway study provisions are included in the bill, a provision is also made to allow Utah to construct a highway through a corridor actually designated by the proposal.

Mr. TAYLOR. I might state that witness No. 18, Robert Thompson, just sent word up there that he wants you to take his time. So you may use that time.

Mr. HASSELL. Fine.

Mr. TAYLOR. Thank you.

Mr. HASSELL. This would indicate that an overwhelming need for such a road has been established without further study, but in fact no such pressing need exists. The Escalante Wilderness Committee has no objections to an objective highway study in the region, but this provision for construction of a specific road without an overall plan for a transportation network is clearly unacceptable.

As one component of such a plan the Escalante Wilderness Committee has proposed a canyon country parkway system, whose components would be existing low standard and dirt roads in the area. Our proposal would be to upgrade these roads into acceptable automotive routes, the net result being a system of roads connecting Utah's chief scenic assets, our five national parks. Central to this scheme would be the upgrading of the present dirt track from Hall's Crossing through the Waterpocket Fold on the Burr Trail, across the Circle Cliffs, and joining the paved highway U-12 at Boulder. The circuit could be completed by paving the dirt road from Cannonville down Cottonwood Wash to U.S. 89 near Glen Canyon City. This road would connect the same two points as the highway provided for in Mr. Lloyd's bill, would be considerably less expensive to construct, and would pass through already established towns in Garfield County, providing much needed tourist dollars to an economically struggling region.

S. 27, on the other hand, manages to avoid most of the weaknesses of Congressman Lloyd's bill. Its provision for a 1,285,310-acre national recreation area to be administered by the National Park Service places the region under the control of an agency with the legal authority to enforce its management plans. Its size and the areas it includes are such that the scenic values adjacent to Lake Powell will be preserved in perpetuity, and it provides for a wilderness study of the Escalante Canyons, something Mr. Lloyd's and Mr. McKay's bills totally ignore.

Under statute a national recreation area is nowhere near as restrictive [illegible] national [illegible]. Grazing [illegible] hiking, and mining are permitted, making the area a true multiple use region. The Moss bill provides for a highway study by the Federal Government and the States of Utah and Arizona with a view toward improvement of the general transportation network in the vicinity without, however, prejudicing the results of such a study. The boundaries of the area are clearly set forth and cannot be changed by a stroke of the pen. A recommendation by this committee that the Moss bill be given approval by the House of Representatives will indicate that your commitment to the future of the Glen Canyon country is genuine.

Of particular interest to myself and the group I represent is the Escalante River and its tributaries in the national recreation area with the provision for wilderness study for the region within 2 years. That the Escalante is now true wilderness is an undeniable fact.

There are no constructed roads in the region, no permanent dwellings, no transmission lines, and no dams. Its delicate beauty and incredible geology are a magnificent testimony to the creative force of wild sand and water, and it fully deserves to be preserved in its natural, pristine state.

Access is along gentle, sandy streambeds, providing easy opportunities for the day hiker, the weekend backpacker, and hikes of longer duration. No special physical stamina is needed to enjoy the region, but its easy accessibility may also be its downfall. Just last month a jeep traveled down Coyote Gulch as far as Coyote Natural Bridge, leaving behind black tire marks on the delicate sandstone and packing the sand in Hurricane Wash to such an extent that revegation of the tire ruts will not be easy for nature to accomplish. The din of vehicle engines in a close, narrow canyon destroys that enjoyment for others for miles around and cannot be permitted to continue. However, without the enforcement of vehicle closure there is no way to prevent the destruction of this beautiful canyon.

We of the Escalante Wilderness Committee recognize fully the dependence of the Garfield County cattlemen on this area for winter range, and we have no desire to see them evicted and deprived of their livelihood. Grazing is specifically permitted in a national recreation area, and could continue even if the area were included in the national wilderness system. The anxiety of the cattlemen over transfer of their range from the BLM to the Park Service is understandable, but the National Park Service is on record as favoring continued administration of grazing permits by the BLM. A cooperative agreement between BLM and the Park Service is currently operating in the Lake Mead National Recreation Area, and the 11,238 AMU's in the region have in no way been jeopardized by National Park Service administration. Of course, range improvements would be prohibited under a wilderness classification, but, BLM resource maps show only one small region, in the Silver Falls Canyon area, with a possibility for such improvements. Hence, such a restriction would seem to be insignificant. Wilderness status would not affect existing improvements, like spring developments.

There is no claim that we can have our cake and eat it, too, in the Glen Canyon country or anywhere else. Some clear choices have to be made, and there is no use kidding ourselves that we can preserve and develop at the same time. We can let this region go by the way of so many other beautiful places that no longer exist, or we can take a stand that here a harmony between man and nature will be preserved. I trust that this committee and the entire House of Representatives is ready to make such a commitment.

Mr. TAYLOR. Mr. Robert Gordon, on deck. Bryan Massumi.

Senator WALLOP. Senator Chafee.

STATEMENT OF HON. JOHN H. CHAFEE, A U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Senator CHAFEE. Senator Pell was ahead of me.

Senator WALLOP. That is correct, he was. I apologize.

Senator Pell.

Senator CHAFEE. He is letting me go first because I introduced the bill, which is very thoughtful of him.

Mr. Chairman, the others have set such speed records here that I will try to emulate them. I first want to thank you for holding this hearing today on the Blackstone River Valley National Heritage Corridor Act, which I introduced along with Senator Pell and Senators Kerry and Kennedy from the neighboring State of Massachusetts.

The Blackstone River Valley is the place of the Industrial Revolution in America, and the purpose of this legislation is to preserve, protect, and interpret the cultural, natural, and historical resources of the region.

The Blackstone River begins in the city of Worcester, MA, and over its 46-mile course it flows through 22 cities and towns and of course goes from Massachusetts into Rhode Island.

In 1790, an event occurred that changed the history of America, and that was in Pawtucket, RI, Samuel Slater built the first water-powered cotton spinning mill. This is along the banks of the Blackstone. The old Slater Mill in Pawtucket was America's first cotton mill, and it is still preserved there by the State.

By 1844, 94 cotton mills lined the banks of the Blackstone River. As the industrial revolution progressed, the mill owners looked for ways to move their goods more cheaply, and so they constructed the Blackstone River Canal, connecting Providence and Worcester.

In 1983, Congress called upon the National Park Service to assess the national significance of the Blackstone Valley corridor. They prepared a report that contained the following items.

First, the valley was the first industrial region in the United States.

Second, the first widespread use of water power for industry occurred along the Blackstone River.

Third, the Rhode Island system of manufacturing developed there.

What this bill does, Mr. Chairman, is to establish a commission to develop a unified historic preservation and interpretation plan for the corridor in Massachusetts and Rhode Island. The operating budget of the commission would not exceed $.5 million per year for 5 years. The Department of the Interior would provide technical support to the commission to enable it to carry out its responsibility.

I want to point out, Mr. Chairman, that Rhode Island voters have approved a heritage bond issue allocating over $1 million for the Blackstone River project and others. The Champlan Foundation, a private, nonprofit foundation in our State, has donated $2 million for local historic preservation, of which a portion would go to this.

Mr. Chairman, the point we are making here is that the State and private organizations would contribute to this. It is extremely important to our State, an enormous recreation potential, and I do hope that this committee and you, Mr. Chairman, would look favorably upon our request.

I thank you.

Senator WALLOP. Thank you, Senator Chafee.

[The prepared statement of Senator Chafee follows:]

STATEMENT BY
SENATOR JOHN H. CHAFEE
TO
SENATE HEARING ON S. 1374
BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR ACT

APRIL 11, 1986

MR. CHAIRMAN, THANK YOU FOR HOLDING TODAY'S HEARING ON THE BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR ACT. I'M DELIGHTED THAT MY DISTINGUISHED COLLEAGUE SENATOR PELL HAS JOINED ME IN SPONSORING THIS BILL, ALONG WITH SENATORS KERRY AND KENNEDY.

THE BLACKSTONE RIVER VALLEY IS THE BIRTHPLACE OF THE INDUSTRIAL REVOLUTION IN AMERICA. THE PURPOSE OF THIS LEGISLATION IS TO PRESERVE, PROTECT, AND INTERPRET THE CULTURAL, NATURAL, AND HISTORIC RESOURCES OF THE REGION. THIS BILL IS NOT ONLY IMPORTANT TO THE STATES OF RHODE ISLAND AND MASSACHUSETTS, BUT TO THE NATION AS WELL.

THE BLACKSTONE RIVER BEGINS IN THE CITY OF WORCESTER, MASSACHUSETTS. OVER ITS 46 MILE COURSE, IT FLOWS THROUGH 22 CITIES AND TOWNS, CROSSING THE STATE BOUNDARY BETWEEN MASSACHUSETTS AND RHODE ISLAND.

IN 1790, AN EVENT OCCURRED THAT WOULD CHANGE THE HISTORY OF AMERICA. IN THAT YEAR, SAMUEL SLATER BUILT THE FIRST WATER-POWERED COTTON SPINNING MILL IN PAWTUCKET ALONG THE BANKS OF THE BLACKSTONE. THE OLD SLATER MILL IN PAWTUCKET WAS AMERICA'S FIRST COTTON MILL. BY 1894, 84 COTTON MILLS LINED THE BANKS OF THE BLACKSTONE. THE FIRST LARGE SCALE USE OF WATER POWER IN NORTH AMERICA OCCURRED ON THE BLACKSTONE RIVER.

AS THE INDUSTRIAL REVOLUTION PROGRESSED, MILL OWNERS LOOKED FOR WAYS TO MOVE THEIR GOODS MORE CHEAPLY. CONSTRUCTION OF THE BLACKSTONE RIVER CANAL CONNECTING PROVIDENCE TO WORCESTER BEGAN IN 1823. ALTHOUGH CONSTRUCTION OF A RAILROAD LATER MADE THE CANAL NON-COMPETITIVE, IT PLAYED A SIGNIFICANT RÒLE IN ESTABLISHING THE TOWNS OF WORCESTER AND PROVIDENCE AS PROMINENT CENTERS OF MANUFACTURING AND TRADE.

IN 1983, CONGRESS CALLED UPON THE NATIONAL PARK SERVICE TO ASSESS THE NATIONAL SIGNIFICANCE OF THE BLACKSTONE VALLEY CORRIDOR.

THE NATIONAL PARK SERVICE PREPARED A REPORT TO ADDRESS OPTIONS FOR CONSERVATION OF THE REGION. ACCORDING TO THE REPORT, THE BLACKSTONE VALLEY ILLUSTRATES THREE HISTORIC THEMES THAT DISTINGUISH IT FROM OTHER INDUSTRIAL AREAS: 1. THE VALLEY WAS THE FIRST INDUSTRIAL REGION IN THE UNITED STATES. 2. THE FIRST WIDESPREAD USE OF WATER POWER FOR INDUSTRY IN THE U.S. OCCURRED ALONG THE BLACKSTONE RIVER. AND THIRD, THE RHODE ISLAND SYSTEM OF MANUFACTURING DEVELOPED HERE. THE DRAFT REPORT RECOMMENDS THE DEVELOPMENT OF AN INTERSTATE HERITAGE PROTECTION PLAN, COMPLEMENTED BY FEDERAL RECOGNITION AND TECHNICAL ASSISTANCE.

OUR LEGISLATION BUILDS UPON THE RESEARCH OF THE NATIONAL PARK SERVICE, AND THE EFFORTS OF THE DEPARTMENTS OF ENVIRONMENTAL MANAGEMENT IN RHODE ISLAND AND MASSACHUSETTS, RHODE ISLAND'S BLACKSTONE CITIZENS ADVISORY COMMITTEE AND OTHER INTERESTED PARTIES. THIS BILL WILL PROVIDE NATIONAL RECOGNITION FOR THE CORRIDOR, LENDING DISTINCTION TO THIS IMPORTANT PROJECT.

THE BILL ESTABLISHES A COMMISSION TO DEVELOP A UNIFIED HISTORIC PRESERVATION AND INTERPRETATION PLAN FOR THE CORRIDOR IN RHODE ISLAND AND MASSACHUSETTS. THE OPERATING BUDGET FOR THE

COMMISSION WILL NOT EXCEED $500,000 PER YEAR FOR FIVE YEARS. THE DEPARTMENT OF INTERIOR WILL PROVIDE TECHNICAL SUPPORT TO THE COMMISSION TO ENABLE IT TO CARRY OUT ITS RESPONSIBILITIES.

MR. CHAIRMAN, THE PEOPLE OF RHODE ISLAND AND MASSACHUSETTS HAVE EXPRESSED ENORMOUS ENTHUSIASM FOR THE PRESERVATION AND ENHANCEMENT OF THE BLACKSTONE CORRIDOR. LAST NOVEMBER, RHODE ISLAND VOTERS APPROVED A HERITAGE BOND ISSUE ALLOCATING OVER $1 MILLION FOR THE BLACKSTONE CORRIDOR PROJECT. THE CHAMPLIN FOUNDATION, A PRIVATE, NON-PROFIT FOUNDATION, HAS DONATED $2 MILLION FOR LOCAL HISTORIC PRESERVATION, OF WHICH A PORTION WILL BE ALLOCATED TO THE BLACKSTONE CORRIDOR PROJECT. FOR SEVERAL YEARS BOTH RHODE ISLAND AND MASSACHUSETTS HAVE BEEN WORKING TO ESTABLISH A SERIES OF PARKS ALONG THE BLACKSTONE. IN MASSACHUSETTS, A HERITAGE PARK HAS BEEN ESTABLISHED IN THE UXBRIDGE AREA. IN RHODE ISLAND A PARK PLAN AND AN ENGINEERING STUDY FOR A BICYCLE PATH ALONG THE RIVER HAVE BEEN COMPLETED.

BUT THIS IS NOT ENOUGH. WITHOUT FEDERAL ASSISTANCE AND RECOGNITION, THESE PLANS WILL NOT BE REALIZED. OUR BILL WILL SUPPLEMENT THESE LOCAL ACTIVITIES, CREATE A COOPERATIVE VENTURE

BETWEEN THE TWO STATES AND THE FEDERAL GOVERNMENT, AND PROVIDE THE STATES WITH THE ASSISTANCE NEEDED TO ESTABLISH THE HISTORIC PARK ENVISIONED HERE. THE NATIONAL PARK SERVICE WILL PROVIDE TECHNICAL ASSISTANCE IN THE AREAS OF HISTORIC PRESERVATION AND RESTORATION, AND IN THE PLANNING AND DESIGNING OF AN INTERPRETIVE SYSTEM. SUCH ASSISTANCE WILL ASSURE THE DESIGN OF A NATIONAL HERITAGE CORRIDOR CONSISTENT WITH OTHER NATIONAL PARKS IN THE NATION.

IN ADDITION TO ITS HISTORICAL SIGNIFICANCE, THE BLACKSTONE RIVER CORRIDOR HAS ENORMOUS RECREATIONAL POTENTIAL. VISITOR'S CENTERS AND DISPLAYS WILL EXPLAIN THE HISTORY, TECHNOLOGY, AND CULTURE OF THE VALLEY. RECREATIONAL TRAILS FOR WALKING, BIKING, AND HORSEBACK RIDING WILL BE DEVELOPED ALONG THE RIVER'S EDGE. INCORPORATED INTO THE PARK WILL BE BEAUTIFUL NATURAL AREAS LIKE THE VALLEY FALLS MARSHES IN RHODE ISLAND, A HAVEN FOR WILDLIFE ADJACENT TO THE MOST DENSELY POPULATED CITY IN NEW ENGLAND -- CENTRAL FALLS.

THIS PROJECT WILL ALSO ENHANCE TOURISM AND ASSIST IN THE ECONOMIC REVITALIZATION THAT IS SO NEEDED IN THIS REGION.

NATIONAL DESIGNATION WILL HELP TO ASSURE THAT THE CULTURAL, HISTORICAL, NATURAL, AND RECREATIONAL RESOURCES OF THE CORRIDOR WILL REALIZE THEIR FULL POTENTIAL. WE CAN HELP TO ESTABLISH A

LEGACY OF THE PAST AS WELL AS DEVELOP A VISION FOR THE FUTURE OF THE VALLEY. WITH OUR ASSISTANCE, THE VISION OF A RENEWED BLACKSTONE VALLEY AND PARK CAN BECOME A REALITY.

MR. CHAIRMAN, I LOOK FORWARD TO WORKING WITH YOU ON THIS LEGISLATION, AND HOPE IT CAN SOON RECEIVE FAVORABLE CONSIDERATION BY YOUR COMMITTEE.

STATEMENT OF HON. CLAIBORNE PELL, A U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Senator PELL. Thank you, Mr. Chairman. Thank you, also, for holding this hearing, because we believe that this linear park will preserve and highlight the birthplace of the American Industrial Revolution.

I am very enthusiastic about the goals of S. 1374, and I thank and congratulate my colleague, Senator Chafee, for the excellent work he has done in advancing this important measure.

As we know, the Blackstone River Heritage Corridor includes the canal built in the 1820's which connected Providence, RI with Worcester, MA, a distance of 45 miles.

The most important point we could make about the Blackstone River Valley Heritage Corridor is that by preserving and highlighting our pioneering industrial park, we can foster a better future and an increasing sense of pride for all of our citizens.

That was a vision I had back in the spring of 1983 when I initiated the first meeting of the National Park Service, the Rhode Island and Massachusetts Departments of Environmental Management and representatives of the congressional delegations from both Rhode Island and Massachusetts to coordinate plans for the Blackstone River.

The Park Service noted at the time that its assistance will help make the area more accessible to the nearly 1 million residents who live in or near the river corridor and stimulate economic activities within the area and improve the environmental quality of the corridor.

The Slater Mill historic site in Pawtucket that Senator Chafee has pointed out is a major historic feature and tourist attraction on the banks of the river. The mill is now run by a private, nonprofit organization struggling desperately to keep their building and exhibits open to the public.

The Rhode Island Department of Environmental Management plans to call for Slater Mill to serve as an entryway and as one of the two orientation centers for the park.

The people of our State clearly support our effort to develop such a heritage corridor. They passed the heritage bond issue in November 1985 for $1 million. The desire and commitment are there to create a heritage corridor that will preserve and highlight an important part of our national history.

The birthplace of the American Industrial Revolution is well worth preserving. We at the Federal level should do what we can to support that effort. I would invite the chairman's attention that our State is a more densely populated one than his, and that the opening of this park would be a pleasure, enjoyment and delight to a million people who are within a very short range of it.

I thank the chairman.

[The prepared statement of Senator Pell follows:]

Testimony by Senator Claiborne Pell
Committee on Energy and Natural Resources
Subcommittee on Public Lands, Reserved Water & Resource Conservation
Friday, April 11, 1986 at 9:30 a.m. (SD-366)

Mr. Chairman, thank you for this opportunity to present the case for national assistance in the creation of the Blackstone River Valley National Heritage Corridor. This linear park will preserve and highlight the birthplace of the American industrial revolution.

You have before you legislation, S. 1374--the Blackstone River Valley Heritage Corridor Act of 1986--which would authorize the necessary federal assistance. That key federal support will help Rhode Island and Massachusetts develop this heritage corridor and protect examples of our nation's early industrial development.

I am enthusiastic about the goals of S. 1374 and I would like to thank my colleague, Senator Chafee, for the excellent work he has done in advancing this important measure.

As you know, the Blackstone River Heritage Corridor includes the Blackstone Canal, built in the 1820's, which connected Providence, Rhode Island with Worcester, Massachusetts, a distance of 45 miles. This canal became a major trade route and the Blackstone Valley flourished while the canal tied together the mills and businesses that fed our industrial revolution.

Local support of S. 1374 is enthusiastic, because federal aid provides the key to local and state preservation efforts. I would like to cite a representative letter, addressed to this committee, from the Greater Woonsocket Chamber of Commerce.

"We take a great deal of pride in the fact that America's industrial revolution was born on the banks of the Blackstone, and want to take whatever steps necessary to preserve the sense of history for posterity.

"Passage of S. 1374 will be the first step toward the revitalization of the area, encouraging private investment and joint public/private ventures too numerous to mention. The Blackstone River is our link not only to the past, but to the future."

That, I think, is the most important point we can make about the Blackstone River Valley Heritage Corridor. By preserving and highlighting our pioneering industrial past, we can foster a better future and an increasing sense of pride for our citizens.

That was the vision I had back in the Spring of 1983. It was then I initiatee the first meeting of the National Park Service, the Rhode Island and Massachusetts Departments of Environmental Management and representatives of Congressional Delegations from both Rhode Island and Massachusetts to coordinate plans for the Blackstone River.

I requested a study by the National Park Service before arranging that meeting and, after the meeting, joined other members of the Rhode Island and Massachusetts Congressional Delegations in requesting the study and working to assure that funds would be available to assure that the study was comprehensive.

The Park Service noted that: "The Blackstone River Corridor, renowned as the "birthplace of the U.S. industrial revolution," has been recognized by a number of Department of the Interior recreation and historic program initiatives."

While commercial and residential development has occurred within the river corridor, the Park Service reported remnants of the historic canal and related cultural resources "provide a basis for extensive future recreation opportunities."

The Park Service noted that its assistance "will help make this area more accessible to the nearly one million residents who live in or near the river corridor and stimulate economic activities within the area, and improve the environmental quality of the corridor."

The Park Service did not recommend that the Blackstone River be included in the National Park System, a designation which would have reduced local control. It did, as we had hoped, strongly recommend continued federal assistance. Assistance, like that provided in S. 1374, is the key to local and state plans to develop this historical park.

The Rhode Island Department of Environmental Management, under tha able leadership of Director Robert Bendick, has no experience in creating the kind of historic park which is appropriate for the Blackstone. The Rhode Island Park System, in fact, does not have any visitor centers of the type needed for the heritage corridor.

The Slater Mill Historic Site in Pawtucket already is a major historic feature and tourist attraction on the banks of the Blackstone River. The mill is run by a private non-profit organization which is struggling desperately to keep their building and exhibits open to the public.

Rhode Island Department of Environmental Management plans call for Slater Mill to serve as an entryway and as one of two orientation centers to the park.

I have been advised that without this Heritage Corridor Legislation, it simply will not be possible for the State of Rhode Island or the Slater Mill Museum to properly convey the story of the Blackstone Valley.

The Rhode Island Department of Environmental Management recently shared a report with us which may help you to better understand the importance of this heritage corridor to those who live in the Blackstone Valley.

"The Blackstone Valley," the report notes, "has suffered from economic problems since the Great Depression. The loss of the textile industry has been an embarrassment for the people of the valley which has taken away what should be pride in their industrial and cultural heritage.

"The Heritage Corridor legislation would give national recognition to the history of the valley and thus restore the self-image of its people. This is essential if the communities within the valley are to participate in saving the heritage of the Blackstone.

"Given the character of the valley, the linear park will only be successful if it is a joint municipal, state and federal project."

The people of Rhode Island clearly support our effort to develop a heritage corridor. They passed the Heritage Bond Issue in November, 1985, which provides one million dollars for land acquisition and development of the park system.

Clearly, the desire and commitment are there to create a heritage corridor that would preserve and highlight an important part of our national history.

The birthplace of the American industrial revolution is well worth preserving and we, on the federal level, should do what we can to support that effort.

In these difficult economic times, when we are cutting budgets to the bone and beyond, I know that we all must look carefully at any legislation proposing new expenditures. This legislation does propose new spending, but it also would assure that we preserve our industrial roots for future generations.

When we look at historic battlefields and Indian Forts throughout America, we should not overlook one of our most important battles--the economic battle of the industrial revolution. We owe it to ourselves and our children to make sure that battle site is preserved and that we also learn from its lessons.

Thank you.

Senator WALLOP. Thank you, Senator Pell.
Senator Dixon.

STATEMENT OF HON. ALAN J. DIXON, A U.S. SENATOR FROM THE STATE OF ILLINOIS

Senator DIXON. Mr. Chairman, if it is agreeable to the Chair, I would like to take 30 seconds and then yield to my colleague, Senator Simon, who will then yield to our distinguished colleague, Senator Evans from the affected district.

Mr. Chairman, thank you very much for granting this hearing on S. 977, cosponsored by my colleague, Senator Paul Simon. A companion measure was introduced by Congressman Lane Evans and cosponsored by the entire Illinois congressional delegation.

Our bills would give national recognition to the Hennepin Canal State Trail by establishing it as the Hennepin Canal National Heritage Corridor. This subcommittee showed its confidence in a new type of designation. The national heritage corridor which was created in Illinois a few years ago with the Illinois and Michigan Canal National Heritage Corridor.

You will be pleased to know that there has been a great deal of progress on the I&M. The public and private sectors are working together on many conservation, recreation, and economic revitalization projects. It is my hope that the Hennepin Canal National Heritage Corridor will provide the same kind of impetus for cooperative multiuse development along the 96-mile corridor.

Mr. Chairman, I would ask your consent to place in the record the statement of the full remarks I had intended to give to the committee and to yield to my distinguished colleague, Senator Paul Simon.

Senator WALLOP. By all means, Alan. Your full statement will be in the record.

[The prepared statement of Senator Dixon follows:]

ALAN J. DIXON
ILLINOIS

United States Senate
WASHINGTON, D.C. 20510

Statement by Senator Alan J. Dixon

April 11, 1985

The Hennepin Canal National Heritage Corridor

Mr. Chairman, thank you very much for granting us this hearing on S. 977, which I introduced with Senator Paul Simon, last April. Congressman Lane Evans was the chief sponsor of the bill in the House, and had all the members of the Illinois congressional delegation as cosponsors of the House bill. There have been no hearings in the House on this measure. Our bills would give national recognition to the Hennepin Canal State Trail by establishing it as the Hennepin Canal National Heritage Corridor.

This subcommittee showed its confidence in a new type of designation, the national heritage corridor, which was created in Illinois a few years ago with the Illinois and Michigan Canal National Heritage Corridor. I see by today's schedule that Massachusetts and Rhode Island are utilizing our innovation and are following Illinois' lead in developing a national heritage corridor of their own! As one of the authors of the I and M bill, I am pleased that other states see the the value of such projects. There has been a great deal of progress on the I and M. The public and private sectors are working together on many conservation, recreation and economic revitalization projects.

Illinois' rich history is once again the basis for another project, the Hennepin Canal National Heritage Corridor. It is my hope that the Hennepin Canal National Heritage Corridor will provide the same kind of impetus for cooperative, multi-use development along the 96 mile corridor. It is not only important for our state, but also for the nation as well.

The majority of the canal is now listed on the National Register of Historic Places as a National Historic District. Today, as a popular recreational corridor featuring trail and water base opportunities, it annually attracts a third of a million visitors.

Situated in rural Northwestern Illinois, the canal is a T-shaped, man-made waterway corridor some 96 miles in length, becoming the natural connection between the Illinois and Mississippi rivers. Formally known as the Illinois and Mississippi Canal, it was built by the U.S. Army Corps of Engineers between 1890 and 1907, was operated for navigation as a component of our inland waterway system until 1951, and was conveyed to the Department of Conservation of the State of Illinois for recreational use in 1970.

A national designation would recognize the area's significance to our nation's history. Implementing the plan will be a partnership of local and state interests--historical societies, industrialists, conservation and recreation groups and State and local governments.

Last year, Representative Lane Evans appointed a 13-member Citizens Task Force on the Hennepin Canal, consisting of individuals representing historic and environmental preservation, recreation, tourism, economic development, agricultural, business and labor. Representative Evans charged the task force with recommending the best way to preserve and redevelop the canal for recreational use, with an eye toward local economic benefits. It is my hope that we can all continue to work together to make this project a reality.

The Hennepin, although somewhat physically modified, remains essentially intact, providing a unique case study of America's historic canals. The technology has provided a basis for more modern waterways.

The Hennepin Canal covers four counties and twenty-one civil townships in Northern Illinois. Although adjacent land use is predominantly agricultural, numerous urban communities of varying size also dot the canal corridor. The canal is readily accessible to both local and regional populations via a well developed highway network. A number of public and private entities in the canal area provide additional outdoor recreational opportunities.

On August 1, 1970 the State of Illinois assumed full ownership of the Hennepin Canal, and has since operated it primarily under the jurisdiction of the Department of

Conservation, as a recreational corridor affording a variety of water and trail-related outdoor recreational opportunities. The redevelopment of the canal continued through mutual efforts of the Department of Conservation and the U.S. Army Corps of Engineers.

Current usage of the canal includes such activities as sport fishing, pleasure boating, nature studying and camping. All of these, in conjunction with an abundance of natural habitat and beauty, will provide an attraction for new businesses, tourism and recreational activities. Image and quality of life are among major considerations for industries staying in an area or moving into a locality.

National recognition is important to the project for the prominence that a national designation can bring to the area. The nation should be proud to have a place of such historic meaning, natural beauty and community commitment. Designation as a National Heritage Corridor is an appropriate step to take.

The project has the support of the State of Illinois, the people who reside along the 96 miles of the canal, businesses in the area and historic preservation and recreation groups, all of whom will be lending a hand in various efforts -- financial, technical and physical -- to establish this area as a model for others to follow.

This legislation is an example of what cooperation by mutual, diverse interests can do to improve a region.

It is my hope that passage of this legislation will mean not only a new recreational and historic site, but also the creation of many new jobs. There will be jobs associated with improvements along the canal, but also increased tourism and business activity.

Illinois has lagged way behind in the economic recovery that many other states are experiencing. Last month, Illinois had an official unemployment rate of 8.9 percent -- 502,000 people out of work. The rates in the four counties along the Hennepin for February were 14.5 percent in Rock Island, 17.3 percent in Henry and 13 percent in Bureau and 12.7 percent in Whiteside. Needless to say, with that many people out of work, any new jobs that would be created through the National Heritage Corridor would be very, very welcome.

Once again, I thank the subcommittee for its consideration of this legislation. It is important to Illinois and the nation.

I would like to submit testimony from the Illinois Department of Conservation, which has prepared some information which I believe will assist the committee in its deliberations.

Illinois Department of Conservation
life and land together

LINCOLN TOWER PLAZA • 524 SOUTH SECOND STREET • SPRINGFIELD 62701-1787
CHICAGO OFFICE - ROOM 100, 160 NORTH LASALLE 60601-3184

April 10, 1986

Honorable Malcom Wallop
Chairman
Subcommittee on Public Lands, Reserved Water, and Resource
Conservation
Committee on Energy and Natural Resources
308 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman:

Please find the enclosed testimony of the State of Illinois, Department of Conservation, for the record of the hearing scheduled in your subcommittee tomorrow on S. 977, the Hennepin Canal National Heritage Corridor Act.

The Department of Conservation supports this legislation to designate the Hennepin Canal as a National Heritage Corridor. If I can be of further assistance to your subcommittee in its deliberations on this legislation, please do not hesitate to contact me.

Sincerely,

Michael B. Witte

Michael B. Witte
Director

Enclosure

Illinois Department of Conservation
life and land together

LINCOLN TOWER PLAZA • 524 SOUTH SECOND STREET • SPRINGFIELD 62701-1787
CHICAGO OFFICE - ROOM 100, 160 NORTH LASALLE 60601-3184

TESTIMONY OF MICHAEL B. WITTE
DIRECTOR, STATE OF ILLINOIS
DEPARTMENT OF CONSERVATION
BEFORE THE
SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER
AND RESOURCE CONSERVATION
APRIL 11, 1986

I appreciate the opportunity to present testimony for the record at this hearing on S. 977, the Hennepin Canal National Heritage Corridor Act.

Based on our review of S. 977, and H.R. 1308, a similar bill pending in the House of Representatives, the Illinois Department of Conservation endorses National Heritage Corridor status for the canal for several reasons. First, the Department views this as an opportunity to help realize the Hennepin's full potential as a cultural and recreational resource of statewide and national significance. Second, such national recognition will also serve as an incentive for completing rehabilitation of this facility, to the extent originally envisioned by the Congress, in its adaptive reuse as a state trail featuring quality trail and water-based recreation. Third, the resulting prominence would almost certainly be a boon to the depressed economy along the canal, and should promote tourism, in particular. Finally, as the legislation states, the Hennepin Canal will dovetail with the Illinois and Michigan Canal, which was designated a National Heritage Corridor in 1984, to form a statewide National Heritage Corridor across the entire width of Illinois.

The Department of Conservation appreciates the opportunity to testify before this subcommittee to request your support of this measure.

We will be pleased to provide additional information if needed.

Senator WALLOP. Senator Simon.

STATEMENT OF HON. PAUL SIMON, A U.S. SENATOR FROM THE STATE OF ILLINOIS

Senator SIMON. I am pleased to join my colleague, Senator Dixon, and to have Congressman Lane Evans here. I would like to enter my statement in the record, also.

Senator WALLOP. By all means.

Senator SIMON. I would just say very briefly we do not have the Grand Tetons of Wyoming in Illinois. We do not have Mount McKinley from Alaska in Illinois. We do have a few little things that are important, both recreationwise——

Senator WALLOP. You have the Hancock Building. [Laughter.]

Senator DIXON. And the Chicago Bears.

Senator SIMON. We have to grab onto what few resources we have. The Cubs have lost twice, Mr. Chairman.

This is one of those resources, and your committee has shown a foresight on these things that is important, and here is a very modest little bit of assistance that can help an area that has high unemployment and that needs the recreational assistance.

Beyond that, let me just yield to Congressman Lane Evans, who has done a remarkable job in the House and who has provided leadership on this.

[The prepared statement of Senator Simon follows:]

STATEMENT OF SENATOR PAUL SIMON

D-Il

Committee on Energy and Natural Resources
Public Lands Subcommittee
April 11, 1986

Mr. Chairman,

Thank you for your cooperation with this hearing.

Last year Senator Dixon and I introduced S. 977 to establish the Hennepin Canal National Heritage Corridor in the State of Illinois. I am pleased to join both colleagues, Senator Dixon and Congressman Evans, in full support of this proposal.

The Illinois and Mississippi or Hennepin Canal was originally constructed in 1892 by the U.S. Army Corps of Engineers for use as a commercial waterway. Closed by the Corps in 1951, the Canal spans from Putnam through Bureau, Henry, Whiteside and Rock Island Counties, providing an opportunity for both historic preservation and environmental conservation.

In the Water Resources Development Act recently passed by the Senate, $13.1 million for repairs of the Canal was authorized. The House bill contains language for a $15 million authorization. In addition, the vast majority of the Canal is now listed in the National Register of Historic Places as a National Historic District. Some have referred to the Canal as a "diamond in the rough". I fully agree.

Approximately 350,000 people visit the Canal each year for fishing, boating, hiking and bicycling, just to name a few of the many recreational opportunities offered by the Hennepin Canal. It is clear that with federal and state support, the Canal would accomodate far more than one third of a million annual visits.

The Canal will join with the Illinois and Michigan Canal National Heritage Corridor to complete the National Heritage Corridor across the width of the State of Illinois. This opportunity for economic development is much needed in western Illinois. Both temporary and permanent jobs will be available in areas like Rock Island County that are presently experiencing real unemployment rates above 12%. The Canal would also be developed according to the Hennepin Canal State Trail Master Management Plan created by the Illinois Department of Conservation. This plan would utilize the Youth

Conservation Corps to assist in clearing and restoring the banks and right-of-way.

This project has the bi-partisan support of the Illinois Congressional delegation, the State of Illinois, recreational, environmental and business groups. I urge my colleagues on the Committee to lend us your full support to enable this joint effort to be truly initiated.

STATEMENT OF HON. LANE EVANS, A U.S. REPRESENTATIVE FROM THE STATE OF ILLINOIS

Mr. EVANS. Thank you, Senator. Mr. Chairman, I thank you for the opportunity to testify. I want to commend both our two Senators from Illinois, Senator Dixon and Senator Simon, for their leadership on this issue.

I would also like to incorporate my entire statement into the record and just mention a few things.

In early 1984 the Hennepin Canal Citizens Task Force, comprised of a group of citizens from central Illinois with diverse interests and backgrounds, recommended that, among other things, Federal legislation should be introduced to designate the Hennepin Canal as a national heritage corridor.

After a thorough evaluation of the task force recommendations and after consultation with the Illinois Department of Conservation, I introduced legislation in the House of Representatives to this end with the sponsorship of the entire Illinois congressional delegation. As you know, Senator Dixon joined in introducing similar legislation in the Senate.

I am convinced that restoring the vitality of the Hennepin Canal would be of great benefit to our citizens and a prudent use of a transportation mode that history has made obsolete.

The Federal Government and the State of Illinois have already committed substantial funds and energy toward this goal. The water project legislation passed by both the House and the Senate contains additional funding for the rehabilitation of the Hennepin Canal, so you can see the Federal Government has a historic and current commitment to the preservation and renewed use of this valuable waterway.

The legislation introduced by your colleague from Illinois, Senator Dixon, does not ask the Federal Government to devote money, manpower, or expertise to this canal. It merely seeks on your part the facilitation of a worthwhile process undertaken by the State of Illinois, and I would urge your committee's adoption of Senator Dixon's legislation.

Senator WALLOP. Thank you, Congressman. I appreciate the testimony of three Members from your great State. Thank you.

[The prepared statement of Mr. Evans follows:]

Testimony of Congressman Lane Evans (D-IL) Before the Subcommittee on Public Lands, Reserved Water and Resource Conservation of the Senate Energy & Natural Resources Committee on legislation to designate the Hennepin Canal a National Heritage Corridor

I want to thank the Chairman and the Members of this Subcommittee for giving me the opportunity to appear before you today. I also want to thank Senator Dixon for his leadership on this important matter.

One of my first actions as the representative for West Central Illinois was to establish a "citizens task force" to recommend how the Hennepin Canal could be developed for the benefit of the the people of Illinois and the nation. The Hennepin Canal, previously known as the Illinois and Mississippi Canal, is the longest man-made waterway in Illinois. Built between 1890 and 1907, this 96-mile waterway comprising an area of 4,300 acres, connects the Illinois and Mississippi rivers.

Seen as a whole, the Hennepin canal joins with the Illinois & Michigan Canal -- which runs from Chicago to LaSalle-Peru -- to form a statewide canalway across the state. The Illinois & Michigan Canal, as you are aware, was designated a National Heritage Corridor in the 98th Congress. The Hennepin served as part of our inland waterway system until 1951, and in 1970 was conveyed to the Illinois Department of Conservation for recreational use.

The Hennepin Canal, for the most part, retains its original components. It has the unique distinction of being the first inland waterway to use structural concrete rather than cut stone to construct the canal locks. This feature of the Hennepin remains a monument to architectural innovation. Furthermore, because of its relatively higher elevation than the great bodies of water that it connects, the Hennepin is supplied by a feeder canal running from the Rock river in northwest Illinois. This is another innovation that has been used in engineering marvels such as the Panama Canal, for instance. I also want to point out that the majority of the canal is listed in the National Register of Historic Places as a National Historic District because of the historic examples of early canal technology that the Hennepin offers.

Beyond the technological features of the Hennepin Canal, there also exists notable concentrations of historic structures along the canal banks, and sections of the waterway that possess significant natural features. Its most compelling feature, however, is the wealth of recreational opportunity that this waterway could provide for the people of Illinois.

The Illinois Department of Conservation, seeing the potential of this waterway, prepared a State Trail Master Management Plan for the Hennepin Canal in early 1983. This plan recognized a Corridor Resource Zone of over 4,000 acres that could be used for hiking, bicycling, horseback riding, fishing, canoeing, and camping. This would be of incalculable value to citizens in Illinois and the Midwest who, in many cases, do not have access to adequate recreational areas.

In this context, you should also note that the communities along the length of the Hennepin Canal have not recovered from the most recent recession. Henry County, through which a great part of the Hennepin Canal flows, currently has an unemployment rate of over 17 percent. Official recognition of the Hennepin Canal as a National Heritage Corridor would be a great boost for future efforts to develop the recreational and tourism potential of the canal. Such development would certainly provide an economic benefit to the struggling communities in this area with additional sources of revenue. And it would be a welcome addition to the ongoing efforts of the state of Illinois to complete rehabilitation of this waterway.

In early 1984, the Hennepin Canal Citizens' Task Force, comprised of a group of citizens from West Central Illinois with diverse interests and backgrounds, recommended that, among other things, federal legislation should be introduced to designate the Hennepin Canal as a National Heritage Corridor. After a thorough evaluation of the Task Force recommendations and consultation with the Illinois Department of Conservation, I introduced legislation in the House of Representatives to this end. Due to its late introduction in the 98th Congress, I reintroduced this legislation in the House earlier this year with the sponsorship of the entire Illinois Congressional Delegation. And as you know, Senator Dixon joined in introducing similar legislation in the Senate.

I am convinced that restoring the vitality of the Hennepin Canal would be of great benefit to our citizens and a prudent use of a transportation mode that history has made obsolete. The federal government and the state of Illinois have already committed substantial funds and energy toward this goal. The water projects legislation passed by both the House and Senate contains additional funding for the rehabilitation of the Hennepin Canal. This money would complete the terms of the agreement reached between the federal government and the state of Illinois when the waterway was turned over to the state Department of Conservation. So, as you can see, the federal government has an historic and current commitment to the preservation and renewed use of this valuable waterway.

I am hopeful that the Members of this Subcommittee will recognize the historical, cultural, and natural value of this waterway and the potential benefits that it holds for recreation and tourism for our citizens. The legislation introduced by your colleague from Illinois, Senator Dixon, does not ask the federal government to devote money, manpower, or expertise to this canal. It merely seeks on your part the facilitation of a worthwhile process undertaken by the state of Illinois.

Washingtonians, Virginians, and citizens of Maryland are fortunate to have ready access to the Chesapeake and Ohio Canal, better known as the C & O Canal. The late Supreme Court Justice William Douglass once remarked on his gratitude and fondness for the impressive stretch of beauty and solitude that the C & O Canal provided for him and other citizens. I can envision this same reaction from people in the Midwest who, far from having ample recreational opportunities, can one day choose to walk, or bike, or picnic along a waterway that stretches across the great expanses of the Land of Lincoln. I urge you to support this legislation, and thank you again for allowing me the time to offer this testimony.

Senator WALLOP. Next in order of appearance was Congressman Shumway from California.

STATEMENT OF HON. NORMAN D. SHUMWAY, A U.S. REPRESENTATIVE FROM THE STATE OF CALIFORNIA

Mr. SHUMWAY. Thank you, Mr. Chairman. I appreciate the constraints on your time. I will be very brief.

I am here to testify in favor of S. 1413, introduced by Senator Wilson. It is a companion measure to H.R. 2067, which I have sponsored in the House and which, Mr. Chairman, has now passed the House twice, once in the 98th Congress and then more recently last December.

This bill would essentially legalize and confirm as far as any interest of the U.S. Government conveyance of certain lands in California that were granted by the United States to the Central Pacific Railway back in 1862. In all, there are 41 parcels of land covered by the bill.

The conveyance of that land has already occurred during the 1800's and 1900's. It was deemed to be unnecessary land to the railroad, and, therefore, it has been used since that time and taxes have been paid on that land by the respective property owners.

Congressional consent, however, was not obtained at that time, and the act of 1862 requires that. The titles, therefore, are clouded. The purpose of this legislation, Mr. Chairman, is simply to remove that cloud from the titles so that various kinds of improvements can go forward.

One of those is a redevelopment project in the city of Tracy, CA. A HUD grant is already in place, but the project cannot succeed until clear title is obtained. So this bill would accomplish that.

Because it has been pending for some time and passed the House a couple of times, I hope that the Senate will look favorably upon it and it will be so treated by this committee.

[The prepared statement of Mr. Shumway follows:]

STATEMENT OF
THE HONORABLE NORMAN D. SHUMWAY
THE COMMITTEE ON ENERGY AND NATURAL RESOURCES
SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER
UNITED STATES SENATE
APRIL 11, 1986

Mr. Chairman, I appreciate this opportunity to appear before the Subcommittee to discuss S. 1413, introduced by Senator Pete Wilson. S. 1413 is the companion measure to H.R. 2067, which has passed the House twice, first in the 98th Congress and more recently on December 3, 1985. This bill would legalize, validate and confirm, as far as U.S. Government interest is concerned, the conveyance of certain lands in California that were granted by the United States to the Central Pacific Railway through the Act of July 1, 1862. 41 parcels of land in four counties are covered under the bill, all of which formed parts of the 400-foot wide right-of-way granted to the Central Pacific, now known as the Southern Pacific Transportation Company.

The need for this legislation arises from the terms of the 1862 Act, under which the federal government provided land grants to individuals to encourage the development of railroads. The Central Pacific Railway, during the late 1800's and early 1900's transferred the titles of unneeded land along the 400-foot wide right-of-way to private property owners whose land abutted the railway. However, because Congressional consent was not obtained at the time of these transfers, the titles remain clouded; only through legislation such as that before us can the owners obtain clear title to the land they have held and paid taxes on for decades.

While the legislation may appear to be minor, the lack of Congressional validation has created a host of difficulties to both communities and individuals along the railroad. For example, the City of Tracy, in my district, obtained funding in 1979 from the Department of Housing and Urban Development for a major redevelopment project that would revitalize a depressed, lower-income minority neighborhood within the community. Many of the properties in this neighborhood, suffering from the clouded titles along the railroad right-of-way, remain vacant and in deteriorating condition. Until clear title is granted to the owners of these properties, improvement of the land and the community cannot proceed. In another case, in Truckee, California, the right-of-way extended to the opposite side of a river from where the railroad was built-- clearly, that land was never needed by the railroad and was transferred to the adjacent property owners. To this day, though, their titles remain in question.

I first introduced this legislation in 1981 and it was passed by the House during the 98th Congress. I believe it is vital that the Senate take favorable action and move us toward final resolution of this non-controversial title problem.

The question has been raised as to whether the government should obtain "fair market value" for the parcels of land covered by the bill; however, these small strips of land have no value to anyone but the adjacent property owners. Futhermore, it would cost the federal government more to conduct the appraisals necessary to attempt to determine the "fair market value" of each parcel than it could possibly get for the land, creating only an administrative nightmare.

Another issue that might be raised with respect to the conveyances in this bill is that of third party interest in the land. Southern Pacific, however, has carefully researched the history of each property before issuing quitclaim deeds in order to ensure that claims to the property were not in contest and that only the "successors in interest" received the deed to the land. In addition, S. 1413 protects third party claimants through language in Section 7 which exempts any conveyance arising out of "adverse possession" from validation.

Mr. Chairman, only Congressional action on this legislation can finally resolve the title uncertainties set in motion 100 years ago. In light of the long delay endured by the individual property owners along the railway in obtaining clear title to the lands they have long believed to be legally their own, I urge the Subcommittee take favorable action on S. 1413.

At this time, Mr. Chairman, I would also like to introduce Mr. Robert Mullen who represents the affected property holders within the City of Tracy, California and Mr. Larry Telford, General Counsel for Santa Fe/Southern Pacific Transportation

Company. Both will testify shortly in support of the bill and, I trust, clarify any concerns that members of the Subcommittee may have with regard to this much needed legislation. I thank the Chairman for granting this hearing on S. 1413 and look forward to its successful passage by the Senate.

Senator **Wallop**. Let me just say it is my hope that we get some of the fair market value problems resolved. It is certainly not our intent to see that it does not come about, but as I am sure you are aware we have come across problems that are complicating it. They certainly are not insurmountable.

Mr. **Shumway**. I am aware of those problems, Mr. Chairman. We addressed this in the House. I believe there is a great deal of testimony and evidence that can be offered on this subject. In fact, in the audience is Mr. Robert Mullen, who represents the affected property owners in California, and Mr. Larry Telford, who is general counsel for the Santa Fe Southern Pacific Transportation Co. Both intend to testify, and I am sure they will be able to shed considerable light on that question.

Senator **Wallop**. Thank you very much. We appreciate it. Congressman Nielson.

STATEMENT OF HON. HOWARD C. NIELSON, A U.S. REPRESENTATIVE FROM THE STATE OF UTAH

Mr. **Nielson**. Thank you, Mr. Chairman. I want to thank you for holding these hearings and for allowing me to testify this morning on the paving of the Boulder to Bull Frog Road, better known as the Burr Trail.

While this road is not in my district, it comes right up to my district and by the aid of a ferry gets into my district. It does affect my constituents because the national parks are linked together.

As I study this issue, it appears that there are important justifications for paving the road. Tourism, public safety, and convenience are valid reasons for paving the Bull Frog to Boulder Road.

It is my feeling that not only will Garfield County benefit from the paving of this road, but so will the rest of southern Utah. The Boulder to Bull Frog Road will complete and enhance the grand circle adventure concept. It will allow for the first time a safe road from which both tourists and residents can view the magnificent water pocket fold of the Capital Wreath National Park, for which the park was primarily created.

It would provide a more direct and shorter route between these national parks in my district, arches and canyon lands and those in my good friend and colleague, Congressman Hansen's district, and Capital Wreath. As this grand circle adventure becomes better known, and with paving this road there seems to be an excellent chance it will be, tourism will increase not only in Garfield County but also in Utah.

Simply put, this road will mean tourists will spend more time in our parks, motels and restaurants and less time on the roads. It is another important piece of the jigsaw puzzle which will help southern Utah maintain a reasonable standard of living.

I will not give my entire statement, but I would like to submit it for the record. I fully support the compromise reached by Mr. Mott of the Park Service. I think it would be very fine to pave the most dangerous part of the road and to maintain the rest of it, and I appreciate his action.

I would also like to submit for the record a statement by Congressman James V. Hansen, whose district this road traverses. He is not able to be here today, but he asked me to submit it for the record as well.

Senator **Wallop**. Of course, we would welcome that testimony.

Mr. **Nielson**. Thank you.

[The prepared statements of Mr. Nielson and Mr. Hansen follow:]

STATEMENT OF THE

HONORABLE HOWARD C. NIELSON

BEFORE THE

SUBCOMMITTEE ON

PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION

MR. CHAIRMAN, I WANT TO THANK YOU FOR HOLDING THESE HEARINGS AND FOR ALLOWING ME TO TESTIFY THIS MORNING ON THE PAVING OF THE BOULDER TO BULLFROG ROAD, BETTER KNOWN AS THE BURR TRAIL. ALTHOUGH THIS ROAD IS NOT IN MY DISTRICT IT DOES AFFECT MANY OF MY CONSTITUENTS.

AS I HAVE STUDIED THIS ISSUE IT APPEARS THAT THERE ARE ~~TWO~~, ~~EQUALLY~~ IMPORTANT JUSTIFICATIONS FOR PAVING THIS ROAD; ~~BOTH~~ TOURISM, ~~AND~~ PUBLIC SAFETY AND CONVENIENCE ARE VALID REASONS FOR PAVING THE BOULDER TO BULLFROG ROAD. IT IS MY FEELING THAT NOT ONLY WILL GARFIELD COUNTY BENEFIT FROM THE PAVING OF THIS ROAD BUT SO WILL THE REST OF SOUTHERN UTAH.

THE BOULDER TO BULLFROG ROAD WILL COMPLETE AND ENHANCE THE

GRAND CIRCLE ADVENTURE CONCEPT. IT WILL ALLOW, FOR THE FIRST TIME, A SAFE ROAD FROM WHICH BOTH TOURISTS AND RESIDENTS CAN VIEW THE MAGNIFICENT WATERPOCKET FOLD OF THE CAPITOL REEF NATIONAL PARK FOR WHICH THE PARK WAS PRIMARILY CREATED. IT WILL ALSO PROVIDE A MORE DIRECT AND SHORTER ROUTE BETWEEN THOSE NATIONAL PARKS IN MY DISTRICT (ARCHES, ~~DINOSAUR~~ & CANYONLANDS) AND THE NATIONAL PARKS IN MY GOOD FRIEND AND COLLEAGUE CONGRESSMAN HANSEN'S DISTRICT (BRYCE, ZION, AND CAPITOL REEF ~~AND CEDAR BREAKS)~~. AS THIS GRAND CIRCLE ADVENTURE BECOMES BETTER KNOWN AND WITH THE PAVING OF THIS ROAD THERE SEEMS TO BE AN EXCELLENT CHANCE THAT TOURISM WILL INCREASE NOT ONLY IN GARFIELD COUNTY BUT IN ALL OF SOUTHERN UTAH. SIMPLY PUT, THIS ROAD WILL MEAN TOURISTS WILL SPEND MORE TIME IN OUR PARKS, MOTELS AND RESTAURANTS AND LESS TIME ON OUR ROADS. THIS ROAD IS ANOTHER IMPORTANT PIECE TO THE JIGSAW PUZZLE THAT WILL HELP SOUTHERN UTAH MAINTAIN A REASONABLE STANDARD OF LIVING.

HOWEVER, MORE IMPORTANT THAN THE BENEFITS FROM TOURISM ARE THE BENEFITS OF SAFETY AND CONVENIENCE FOR THE RESIDENTS IN

GARFIELD COUNTY. THE BOULDER TO BULLFROG ROAD IS THE ONLY ROAD THAT CONNECTS GARFIELD COUNTY FROM THE EAST TO WEST THROUGH CAPITOL REEF NATIONAL PARK. THIS LINK PROVIDES THE EASTERN PORTION OF THE COUNTY. NOT ONLY ARE THEY DEPRIVED OF SEVERAL COUNTY SERVICES; THEY ALSO ARE NOT ABLE TO ASSOCIATE WITH THEIR FELLOW COUNTY RESIDENTS. THIS ROAD WILL PLAY AN IMPORTANT ROLE IN UNITING THE COUNTY.

I BELIEVE THAT WE NEED A SAFE, LOW-SPEED ROAD TO MEET THE NEEDS OF THIS COUNTY. SOME WILL ARGUE THAT WE SHOULD NOT SPEND THE MONEY TO UPGRADE AND PAVE THIS ROAD. THEY INDICATE THAT IT IS NOT WISE USE OF FEDERAL, STATE AND COUNTY FUNDS. WHAT COULD BE BETTER USE OF THESE FUNDS THEN TO PAVE A ROAD THAT HAS BEEN USED FOR MANY YEARS AS A LINK BETWEEN THE WEST AND EAST PORTIONS OF THE COUNTY. WE ARE TALKING ABOUT PROVIDING A SAFE, RELIABLE ROAD FOR RESIDENTS OF A RURAL COUNTY. WE DO MANY THINGS FOR OUR URBAN DWELLERS IN ORDER TO MAKE LIFE EASIER, MORE PLEASENT AND SIMPLE MORE CONVENIENT. IF THE PEOPLE OF THIS COUNTY FEEL THAT THEY NEED THIS ROAD THEN THEY SHOULD HAVE IT. THE RESIDENTS OF

SOUTHERN UTAH DIDN'T OBJECT WHEN THEIR NEIGHBORS LIVING ON THE WASATCH FRONT USED FEDERAL AND STATE FUNDS FOR PROBLEMS ASSOCIATED WITH FLOODING FOR THE LAST THREE YEARS, NOR DID THEY OBJECT TO THE BUILDING OF THE CENTRAL UTAH PROJECT EVEN THOUGH THEY WOULD RECEIVE MINIMAL BENEFITS. THEY ALSO DID NOT OBJECT TO THE BUILDING OF INTERSTATE 15 OR OTHER MAJOR HIGHWAYS ALONG THE WASATCH FRONT. SALT LAKE CITY AND THE REST OF THE WASATCH FRONT NEEDED THESE PROJECTS AND OTHERS. THE SOUTHERN PORTION OF THE STATE NEEDS THIS ROAD. I THINK WE OWE IT TO THEM TO LET THEM DECIDE FOR THEMSELVES IF THE ROAD SHOULD BE PAVED.

LAST SPRING THE PARK SERVICE HELD A SERIES OF PUBLIC HEARINGS ON THE PAVING OF THIS ROAD. WITHOUT EXCEPTION THE OVERWHELMING MAJORITY OF THOSE IN ATTENDANCE VOICED THEIR SUPPORT FOR THE PAVING OF THE ROAD. MOST OFTEN THEY EXPRESSED CONCERN FOR THEIR SAFETY AS THEY TRAVELED THAT ROAD. THERE WERE NUMEROUS ACCOUNTS OF INDIVIDUALS BEING STRANDED OVERNIGHT ON THIS ROAD DUE TO WEATHER CONDITIONS. THEY ALSO EXPRESSED FRUSTRATION IN HAVING TO DRIVE OVER 300 MILES PER ROUND TRIP ~~AND~~ THROUGH THREE OTHER COUNTIES

TO GET FROM THE WEST END TO THE EAST END OF THE COUNTY. WITHOUT QUESTION THESE HEARINGS ESTABLISHED THE LOCAL SUPPORT FOR PAVING OF THE BOULDER TO BULLFROG ROAD.

IN CONCLUSION, I WOULD LIKE TO GO ON RECORD IN SUPPORT OF THIS ROAD. ALTHOUGH I WOULD HAVE LIKED TO HAVE SEEN THE ENTIRE ROAD PAVED I SUPPORT THE PAVING OF THE ROAD AS OUTLINED IN THIS LEGISLATION. THE ROAD WOULD ALLOW FOR ADDITIONAL TOURISM AND BETTER ACCESS FOR RESIDENTS OF GARFIELD COUNTY. I DO NOT THINK THIS ROAD WILL BEGIN TO SOLVE THE ECONOMIC PROBLEMS BUT IT CERTAINLY WOULD BE ANOTHER STEP TOWARDS DEVELOPING NOT ONLY GARFIELD COUNTY BUT ALL OF SOUTHERN UTAH.

APRIL 11, 1986

STATEMENT OF CONGRESSMAN
JAMES V. HANSEN (UTAH) ON S. 2265

Before the Subcommittee on Public Lands
and Reserved Water of the Senate
Committee on Energy and Natural Resources

MR. CHAIRMAN: I appreciate the opportunity I have to include this statement in the hearing record regarding S. 2265, a bill authorizing the establishment of the Burr Trail National Scenic Road in the State of Utah.

I am grateful to both Senator Garn and Senator Hatch for the introduction of this legislation. There has already been a great deal of debate over the creation of this scenic road, and I am especially grateful to the Director of the National Park Service, William Penn Mott, for his leadership and commitment to this issue.

The legislation before you today is a compromise plan described by many as the Mott proposal. It allows for the paving of approximately 10 miles, and gravel construction of the remaining 56 miles, of the Burr Trail. This road will allow visitors better access into the region of Southern Utah.

I have been on record of supporting this proposal for some time and would like to point out that the people of Garfield County, where this road is located, are also very supportive of this road.

What would the road mean to southern Utah? First, it would offer an improved road experience through Capitol Reef National Park where a normal passenger car could safely and pleasantly travel. Second, the road could provide more access to the Lake Powell region.

Lake Powell has over 2 million visitors a year, and tourism in the area is growing by leaps and bounds. It has as many visitors as Yellowstone National Park. In addition, the number of visitors to Lake Powell continues to increase, while Yellowstone's numbers have leveled off. The point is that Lake Powell has been growing in spite of the poor access into southern Utah, and studies indicate that 250 more people could travel through this area daily with such a road.

The road would enhance the tourist business in southern Utah, and those in Utah Government who have examined it all agree with that point. These same people also believe that it can be built in such a way that it will not hinder the environment. In fact, a paved road will alleviate dust pollution and erosion problems, and it will deter people from driving off the road, which damages the adjoining areas.

Last year, the National Park Service held three hearings in southern Utah regarding the paving of the Burr Trail. The overwhelming majority of those in attendance (roughly 98 percent) favored the paving of the road.

I urge your committee's favorable consideration of this legislation. Thank you.

Senator WALLOP. If you would be kind enough to pass the microphone to your colleague. Congresswoman Johnson.

STATEMENT OF HON. NANCY L. JOHNSON, A U.S. REPRESENTATIVE FROM THE STATE OF CONNECTICUT

Mrs. JOHNSON. Thank you very much. Good morning, Mr. Chairman. I thank you for convening this hearing. It is not very often here in Washington that we are able to take the long view. The work of your committee is certainly part of that important long view that will determine the quality of the environment and the Nation we bequeath to our children.

I am here this morning to support S. 1946, proposed by Senator Weicker, cosponsored by Senator Dodd, to designate the west branch of the Farmington River as eligible for a study under the National Wild and Scenic River System.

As you know, the House version of this measure was contained in H.R. 4350, which passed the House of Representatives earlier this week.

The Farmington River, as other witnesses will highlight today, is a remarkable and valuable resource that cuts through my district and provides endless hours of enjoyment to thousands of people throughout Connecticut and the Northeast, since it has the best white water rapids in the Northeast, but especially is enjoyed by those in the Greater Hartford area, which is only a few miles away and is home to over 200,000 people.

It is unique to have a natural resource that still can be seen and enjoyed as wild and scenic so close to a metropolitan area. It is one of the unique aspects of life in New England, this small scale of integrating, very diverse elements. It therefore makes its preservation particularly important both to us in New England and I believe to the Nation.

This bill authorizes the Secretary, in close cooperation with State and local interests, to conduct a thorough study of the west branch in preparation for possible inclusion of the two specified segments in the Wild and Scenic River System.

Since the Park Service, in conjunction with the Farmington River Watershed Association and the Connecticut Department of Environmental Protection, has already completed a year-long assessment of the river using technical assistance funds, the study envisoned by this bill will build on that information and probably take less than 2 years.

S. 1946 is identical to my original bill, H.R. 2191, and contains provisions that were changed with my support in the House Interior Committee and adopted on the House floor.

I would like to just call your attention to the changes that were made and the reasons for the changes because I would urge you to change your bill in a like manner.

In order to facilitate the study process, my original bill created a study committee that would work closely with the Secretary of the Interior in compiling information and preparing a management plan. Due to an oversight, my bill and S. 1946 require the study committee's members to be named by the Governors of Connecticut and Massachusetts, not by the Secretary of the Interior. Obviously we changed that, and we hope you will change that as well.

Membership in the study committee was expanded in the House-passed bill to include additional representation from the Metropolitan District Commission which provides drinking water to the Greater Hartford area from the east branch of the Farmington River. Although this study deals with the west branch, they were very anxious to be represented in strength commensurate with that from the Farmington River Watershed Association, and so we have allowed each two representatives on this study committee. We hope you will support that change as well.

The preparation of a management plan as part of the study was included by us for obvious reasons. That is, however, really beyond the scope of the wild and scenic study legislation and so we did, in deliberation with all the interested parties, delete that section and substitute for it some report language. We would hope that you would do likewise.

We certainly appreciate your consideration of what, to us, is an enormously important opportunity to plan for the preservation of a very important natural resource in New England, one that we think is of value to all of the Nation.

Mr. Chairman, I will submit the rest of my testimony for your review, which goes further in identifying some technical changes that need to be made.

I thank you for your attention.

[The prepared statement of Mrs. Johnson follows:]

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CHILDREN, YOUTH, AND FAMILIES

STATEMENT

of

Honorable Nancy L. Johnson

before the

Subcommittee on Public Lands, Reserved Water and Resource Conservation

April 11, 1986

Good morning, Mr. Chairman and members of the subcommittee. Let me begin by adding my thanks for your prompt scheduling of this hearing on S. 1946, Senator Weicker's bill, cosponsored by Senator Dodd, to designate the West Branch of the Farmington River as eligible for study under the National Wild and Scenic Rivers System. As you know, the House version of this measure was contained in H.R. 4350 which passed the House of Representatives earlier this week.

The Farmington River, as other witnesses will highlight today, is a remarkable and valuable resource that cuts through my district and provides endless hours of enjoyment to thousands of people from throughout Connecticut, especially those from the greater Hartford area which is but a few miles away and is home to over 200,000 people. In addition, the Farmington provides valuable drinking water to metropolitan Hartford through carefully controlled flows thanks to the ongoing cooperation of the many parties interested in the River.

Mr. Chairman, this bill authorizes the Secretary of the Interior, in close cooperation with state and local interests, to conduct a thorough study of the West Branch in preparation for possible inclusion of the two specified segments in the Wild and Scenic Rivers System. Since the Park Service, in conjunction with the Farmington River Watershed Association and the Connecticut Department of Environmental Protection, completed a year-long assessment of the river in early 1984, the study envisioned by the bill will build on information already collected and take no more than three years to finish.

S. 1946 is identical to my original bill, H.R. 2191, and contains provisions that were changed, with my support, in the House Interior Committee and adopted on the House floor. Permit me to outline the amendments and the reasons for my interest in seeing your Committee adopt these changes.

o In order to facilitate the study process, my original bill created a Study Committee which would work closely with the Secretary of the Interior in compiling the necessary information and preparing the management plan. Due to an oversight, my bill and S. 1946 require the Study Committee's members to be named by the Governors of Connecticut and Massachusetts and not by the Secretary of the Interior. This was corrected in H.R. 4350 to give the Secretary the authority to name all 17 members of the Committee. In addition, language was added to deal with vacancies, quorums, etc.

o Membership on the Study Committee was expanded in the House-passed bill to include an additional representative from the Metropolitan District Commission (MDC) which provides drinking water to the greater Hartford area from the East Branch of the Farmington. My Connecticut colleague, Congresswoman Barbara Kennelly, pointed out that the MDC did not have representation on the Committee equal to that enjoyed by the Farmington River Watershed Association (FRWA). I agreed with her suggestion and the MDC and FRWA each have two slots on the Study Committee in the bill passed by the House.

o The preparation of a management plan as part of the study was included in S. 1946 and my original bill but was determined to be beyond the scope of a wild and scenic study at this time. After considerable deliberation with the parties interested in this legislation, the section entitled "Study Process" was stricken and language requiring a discussion of management alternatives in the report was added in H.R. 4350 (section 202(c), page 11 of the bill as reported).

Mr. Chairman, many hours of discussion went into the compromise language contained in H.R. 4350 and I commend it to your attention as you proceed with markup. All interested parties, including the National Park Service, the Connecticut Department of Environmental Protection, the FRWA, the MDC, and the American Rivers Conservation Council participated in the discussions leading up to House passage of this important environmental legislation.

Mr. Chairman, members of the Committee, on behalf of the people of the Farmington River valley, I thank you for your review of S. 1946 to study the West Branch of the Farmington. Permit me to offer for the record, a series of supporting letters and other materials from various interested parties as well as statements from the four Connecticut towns along the West Branch, all of which support enactment of H.R. 2191. I also offer a letter in support of my efforts on behalf of the Farmington from the Connecticut Department of Environmental Protection.

Thank you for your attention. I will be happy to answer any questions that you may have.

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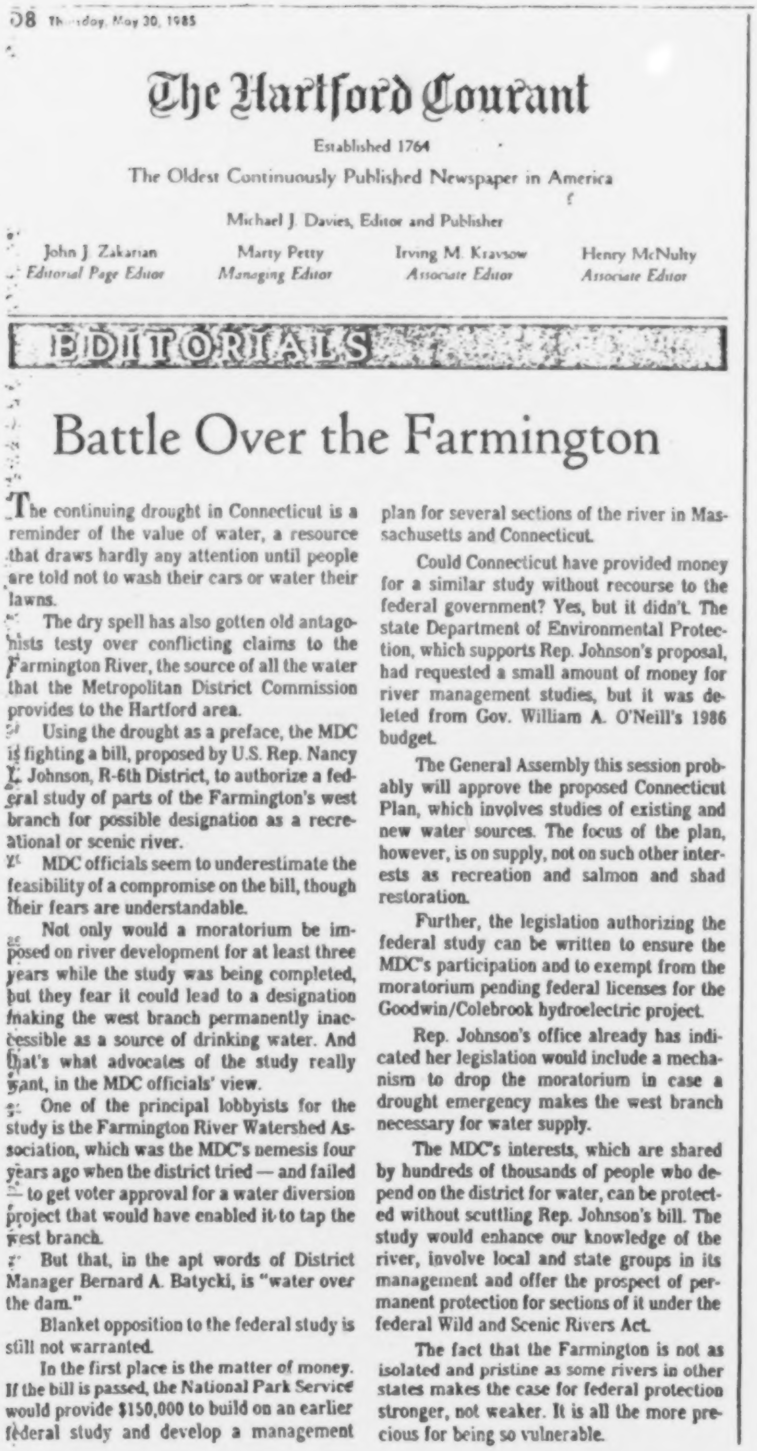
OFFERED BY CONGRESSWOMAN JOHNSON

APRIL 11, 1986



D8 Thursday, May 30, 1985

The Hartford Courant

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EDITORIALS

Battle Over the Farmington

The continuing drought in Connecticut is a reminder of the value of water, a resource that draws hardly any attention until people are told not to wash their cars or water their lawns.

The dry spell has also gotten old antagonists testy over conflicting claims to the Farmington River, the source of all the water that the Metropolitan District Commission provides to the Hartford area.

Using the drought as a preface, the MDC is fighting a bill, proposed by U.S. Rep. Nancy L. Johnson, R-6th District, to authorize a federal study of parts of the Farmington's west branch for possible designation as a recreational or scenic river.

MDC officials seem to underestimate the feasibility of a compromise on the bill, though their fears are understandable.

Not only would a moratorium be imposed on river development for at least three years while the study was being completed, but they fear it could lead to a designation making the west branch permanently inaccessible as a source of drinking water. And that's what advocates of the study really want, in the MDC officials' view.

One of the principal lobbyists for the study is the Farmington River Watershed Association, which was the MDC's nemesis four years ago when the district tried — and failed — to get voter approval for a water diversion project that would have enabled it to tap the west branch.

But that, in the apt words of District Manager Bernard A. Batycki, is "water over the dam."

Blanket opposition to the federal study is still not warranted.

In the first place is the matter of money. If the bill is passed, the National Park Service would provide $150,000 to build on an earlier federal study and develop a management plan for several sections of the river in Massachusetts and Connecticut.

Could Connecticut have provided money for a similar study without recourse to the federal government? Yes, but it didn't. The state Department of Environmental Protection, which supports Rep. Johnson's proposal, had requested a small amount of money for river management studies, but it was deleted from Gov. William A. O'Neill's 1986 budget.

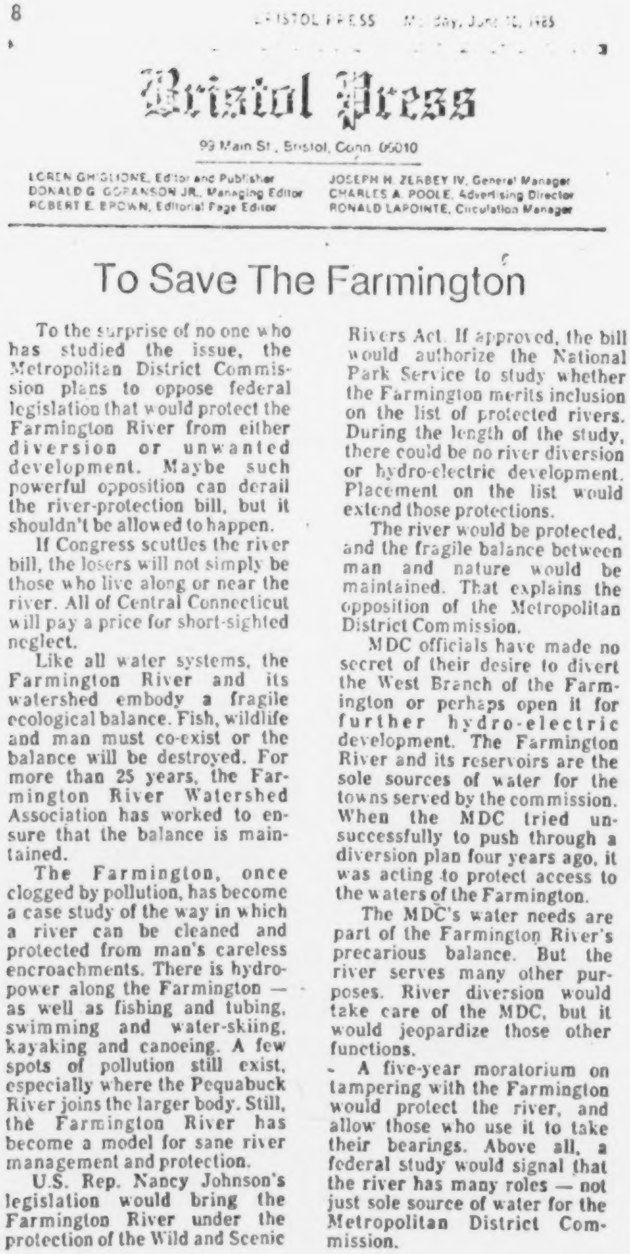
The General Assembly this session probably will approve the proposed Connecticut Plan, which involves studies of existing and new water sources. The focus of the plan, however, is on supply, not on such other interests as recreation and salmon and shad restoration.

Further, the legislation authorizing the federal study can be written to ensure the MDC's participation and to exempt from the moratorium pending federal licenses for the Goodwin/Colebrook hydroelectric project.

Rep. Johnson's office already has indicated her legislation would include a mechanism to drop the moratorium in case a drought emergency makes the west branch necessary for water supply.

The MDC's interests, which are shared by hundreds of thousands of people who depend on the district for water, can be protected without scuttling Rep. Johnson's bill. The study would enhance our knowledge of the river, involve local and state groups in its management and offer the prospect of permanent protection for sections of it under the federal Wild and Scenic Rivers Act.

The fact that the Farmington is not as isolated and pristine as some rivers in other states makes the case for federal protection stronger, not weaker. It is all the more precious for being so vulnerable.



Bristol Press

93 Main St., Bristol, Conn. 06010

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To Save The Farmington

To the surprise of no one who has studied the issue, the Metropolitan District Commission plans to oppose federal legislation that would protect the Farmington River from either diversion or unwanted development. Maybe such powerful opposition can derail the river-protection bill, but it shouldn't be allowed to happen.

If Congress scuttles the river bill, the losers will not simply be those who live along or near the river. All of Central Connecticut will pay a price for short-sighted neglect.

Like all water systems, the Farmington River and its watershed embody a fragile ecological balance. Fish, wildlife and man must co-exist or the balance will be destroyed. For more than 25 years, the Farmington River Watershed Association has worked to ensure that the balance is maintained.

The Farmington, once clogged by pollution, has become a case study of the way in which a river can be cleaned and protected from man's careless encroachments. There is hydropower along the Farmington — as well as fishing and tubing, swimming and water-skiing, kayaking and canoeing. A few spots of pollution still exist, especially where the Pequabuck River joins the larger body. Still, the Farmington River has become a model for sane river management and protection.

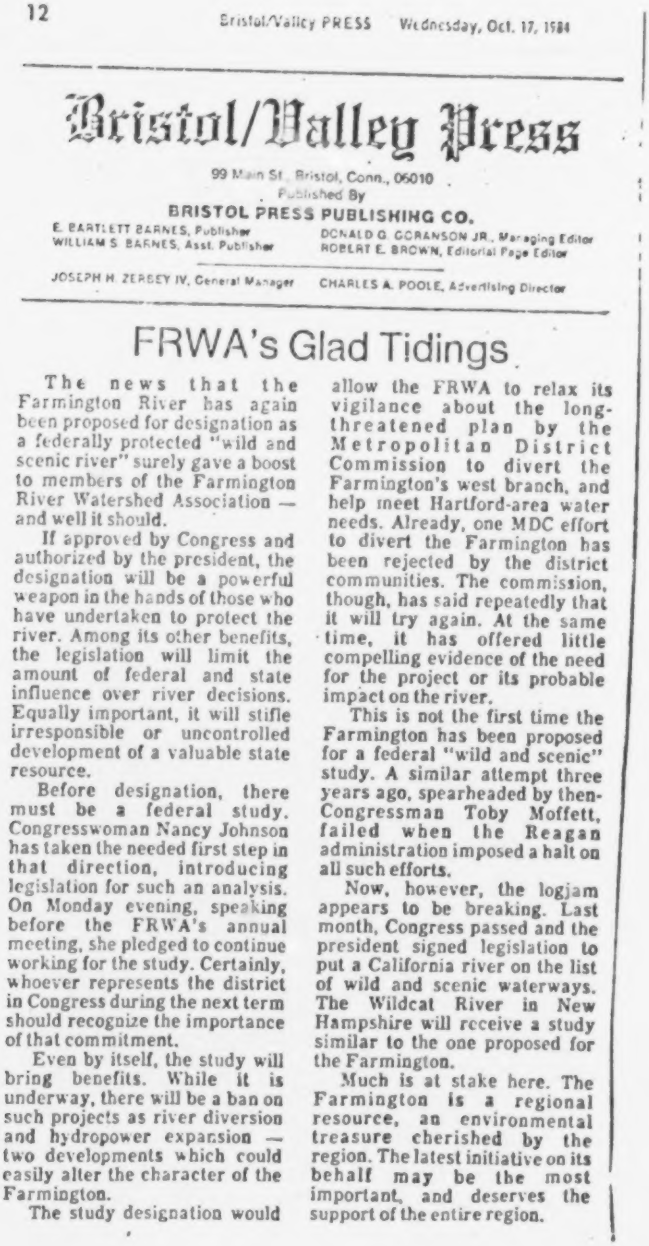
U.S. Rep. Nancy Johnson's legislation would bring the Farmington River under the protection of the Wild and Scenic Rivers Act. If approved, the bill would authorize the National Park Service to study whether the Farmington merits inclusion on the list of protected rivers. During the length of the study, there could be no river diversion or hydro-electric development. Placement on the list would extend those protections.

The river would be protected, and the fragile balance between man and nature would be maintained. That explains the opposition of the Metropolitan District Commission.

MDC officials have made no secret of their desire to divert the West Branch of the Farmington or perhaps open it for further hydro-electric development. The Farmington River and its reservoirs are the sole sources of water for the towns served by the commission. When the MDC tried unsuccessfully to push through a diversion plan four years ago, it was acting to protect access to the waters of the Farmington.

The MDC's water needs are part of the Farmington River's precarious balance. But the river serves many other purposes. River diversion would take care of the MDC, but it would jeopardize those other functions.

A five-year moratorium on tampering with the Farmington would protect the river, and allow those who use it to take their bearings. Above all, a federal study would signal that the river has many roles — not just sole source of water for the Metropolitan District Commission.



Bristol/Valley Press

99 Main St., Bristol, Conn., 06010
Published By
BRISTOL PRESS PUBLISHING CO.
E. BARTLETT BARNES, Publisher
WILLIAM S. BARNES, Asst. Publisher
DONALD G. CORANSON JR., Managing Editor
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FRWA's Glad Tidings

The news that the Farmington River has again been proposed for designation as a federally protected "wild and scenic river" surely gave a boost to members of the Farmington River Watershed Association — and well it should.

If approved by Congress and authorized by the president, the designation will be a powerful weapon in the hands of those who have undertaken to protect the river. Among its other benefits, the legislation will limit the amount of federal and state influence over river decisions. Equally important, it will stifle irresponsible or uncontrolled development of a valuable state resource.

Before designation, there must be a federal study. Congresswoman Nancy Johnson has taken the needed first step in that direction, introducing legislation for such an analysis. On Monday evening, speaking before the FRWA's annual meeting, she pledged to continue working for the study. Certainly, whoever represents the district in Congress during the next term should recognize the importance of that commitment.

Even by itself, the study will bring benefits. While it is underway, there will be a ban on such projects as river diversion and hydropower expansion — two developments which could easily alter the character of the Farmington.

The study designation would allow the FRWA to relax its vigilance about the long-threatened plan by the Metropolitan District Commission to divert the Farmington's west branch, and help meet Hartford-area water needs. Already, one MDC effort to divert the Farmington has been rejected by the district communities. The commission, though, has said repeatedly that it will try again. At the same time, it has offered little compelling evidence of the need for the project or its probable impact on the river.

This is not the first time the Farmington has been proposed for a federal "wild and scenic" study. A similar attempt three years ago, spearheaded by then-Congressman Toby Moffett, failed when the Reagan administration imposed a halt on all such efforts.

Now, however, the logjam appears to be breaking. Last month, Congress passed and the president signed legislation to put a California river on the list of wild and scenic waterways. The Wildcat River in New Hampshire will receive a study similar to the one proposed for the Farmington.

Much is at stake here. The Farmington is a regional resource, an environmental treasure cherished by the region. The latest initiative on its behalf may be the most important, and deserves the support of the entire region.

State of Connecticut
Department of Environmental Protection
Stanley J. Pac
Commissioner
165 Capitol Avenue Hartford Connecticut 06106

May 7, 1985

The Honorable Nancy Johnson
U.S. House of Representatives
119 Cannon House Office Building
Washington, DC 20515

Dear Mrs. Johnson:

I am writing to express the Department of Environmental Protection's (DEP) support for your efforts to provide a vehicle through which all affected and interested parties can participate in the development to a management plan for the West Branch of the Farmington River.

The DEP has been and continues to be an enthusiastic supporter of programs which seek to protect the state's valuable water resources. Our interest has been clearly demonstrated by our active participation in a series of federal and state river studies that have resulted in recommendations for various regulatory and riparian controls which are currently in place. As you know, two of the most recent legislative efforts, the Connecticut Diversion Act (C.G.S. 22a-365 through 22a-377) and the Connecticut River Management Act (C.G.S. 25-102pp through 25-102vv), were actively supported by the DEP and have been enacted into law. The former extends our regulatory control to specifically include all significant withdrawals, alterations or diversion of riverine flows and the latter gives river fronting municipalities a substantive opportunity, in cooperation with the DEP, to develop an effective land use management plan to protect their river corridors. All of Connecticut's rivers, including the Farmington River, continue to benefit from these past efforts.

The DEP recognizes, however, that it cannot be complacent about past planning studies and regulatory efforts. There is clearly room for continued study and improved management of the state's river systems. In fact, the most significant impediment to broad application of the River Management Act would appear to be a lack of funding to encourage local and interest group participation. It was with this problem in mind that we sought National Park Service funding for a project, developed cooperatively with the Farmington River Watershed Association (FRWA) and the Housatonic Valley Association (HVA) and designed to help produce the components of a statewide river management plan. In addition, the DEP has been an active participant in the Water Resources Task Force established by the General Assembly. After several months of investigation and deliberation, the Task Force has submitted its recommendations to the legislature for action. While the outcome of these recommendations cannot be guaranteed at this time, the concept of water management plans proposed by the Task Force is one I strongly endorse.

As I understand it, your approach would be to propose that approximately eighteen miles of the West Branch of the Farmington River be studied for inclusion under the U.S. Wild and Scenic Rivers Act. Past efforts by the National Park Service staff on the Housatonic, Bantam/Shepaug and Farmington Rivers have not produced the results originally anticipated. However, with the participation of all interested parties here in Connecticut, I am confident that we can obtain better results in the future. Further, I recognize this to be the most viable federal mechanism available to provide the funding to give impetus to some of the work necessary to develop a river management plan for the Farmington River.

In addition, I understand that the National Park Service has resolved the potential concerns that had been discussed by our respective staffs. I would hope that, irrespective of federal interests and noting that the Farmington is an inherently complex river system, the focus of the effort and its direction would be guided primarily by the Connecticut participants, both public and private. I believe a combination of federal funding and the procedures outlined in the Connecticut River Management Act may well provide the best guidance for developing a river management plan for the Farmington River in which all parties can participate on an equitable basis. Independent of the moratorium provided for federal activities under existing federal legislation, existing state regulatory programs guarantee that no significant changes can occur in existing river flows without a clear opportunity for public and municipal input. Additional funding assistance would provide the resources necessary to develop the components of a river management plan not currently in place. The issues which we believe to be most important and which could be accomplished by municipal and river association participation include the following:

- a specific inventory and mapping of natural and historic or cultural resources along the river corridor and an articulation of those resource qualities that need special consideration and protection not afforded by existing law;
- an inventory of existing municipal land use master plans and zoning requirements to determine their degree of sensitivity to the protection of riverine resources;

- the development of resource protection guidelines that could be incorporated into existing land use regulations by the municipalities as appropriate;

- a determination as to whether the existing recreational use conflicts on our rivers pose a significant enough problem to warrant the development of specific recreational use master plans, or whether site and use specific regulations developed for resource protection is more appropriate.

As a final point, there is one additional item that I believe merits inclusion in the legislation which you propose. Because of the controlled nature of flows in the Farmington River under riparian agreements currently in effect and because the Farmington is used in part for existing public water supply needs, I recommend that there be a provision for waiver of the moratorium under specific, special circumstances such as those outlined in Section 1 of Conn. Public Act 84-281 (copy attached). Inclusion of such a provision, hopefully under state rather than federal control, would in my opinion move to alleviate concern over any potential conflict with a federal moratorium and the existing water supply network which is in place on the Farmington River.

I am confident that, working together, we can satisfy all concerns over protection of the state's riverine systems including specifically the Farmington. Because the issues raised by this topic affect a number of units within the DEP, I have asked Art Rocque of my staff to coordinate our agency response and our efforts with those of you and your staff. He will be available to meet with you and any of the groups interested in these efforts to further our mutual interests. Please contact him at (203)566-3740 if we can be of assistance.

Sincerely,

Stanley J. Pac

Stanley J. Pac
Commissioner

SJP/AJR/mic

cc Richard Couch
Robert Jones
Robert Moore
Arthur Rocque
Hugo Thomas
Benjamin Warner

Substitute House Bill No. 5592

PUBLIC ACT NO. 84-281

AN ACT CONCERNING THE DECLARATION OF PUBLIC WATER SUPPLY EMERGENCIES BY THE COMMISSIONER OF HEALTH SERVICES.

Section 1. (NEW) The commissioner of health services, in consultation with the commissioner of environmental protection and the public utilities control authority, may declare a public drinking water supply emergency upon receipt of information that a public water supply emergency exists or is imminent. Notwithstanding any other provision of the general statutes or regulations adopted thereunder, or special act or municipal ordinance, the commissioner of health services may authorize or order the sale, supply or taking of any waters, including waters into which sewage is discharged, or the temporary interconnection of water mains for the sale or transfer of water among water companies. The public utilities control authority shall determine the terms of the sale of any water sold pursuant to this section if the water companies that are party to the sale cannot determine such terms or if one of such water companies is regulated by the authority. The authorization or order may be implemented prior to such determination. Any authorization or order shall be for an initial period of not more than thirty days but may be extended for additional periods of thirty days up to one hundred fifty days, consistent with the contingency procedures for a public drinking water supply emergency in the plan approved pursuant to house bill 5605* of the current session to the extent the commissioner of health services deems appropriate. Upon request by the commissioner of health services, the commissioner of environmental protection, pursuant to section 22a-378 of the general statutes, as amended by section 3 of this act, shall suspend a permit issued pursuant to section 22a-368 of the general statutes or impose conditions on a permit held pursuant to said section. The time for such suspension or conditions shall be established in accordance with subdivision (1) of subsection (a) of section 22a-378 of the general statutes, as amended by section 3 of this act. As used in section 1 and section 22a-378 of the general statutes, as amended by section 3 of this act, "public drinking water supply emergency" includes the contamination of water, the failure of a water supply system or the shortage of water.

Sec. 2. (NEW) Any person who violates any provision of an authorization or order issued pursuant to section 1 of this act, shall pay a civil fine not to exceed five thousand dollars per day, to be fixed by the superior court, commencing from the date compliance to the authorization or order was required. Each violation shall be a separate and distinct offense and, in the case of a continuing violation, each day's continuance thereof, shall be deemed to be a separate and distinct offense. The attorney general, upon complaint of the commissioner of health services, shall institute a civil action to recover such fine.

Sec. 3. Subsection (a) of section 22a-378 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) If a water supply emergency has been declared by the governor or otherwise according to law, the commissioner shall have the power to: (1) Temporarily suspend a permit for diversion or impose conditions upon permit holders without a hearing for a period of thirty days, which period may be extended once for a similar period. If the commissioner determines that it is necessary to extend a temporary suspension or the conditions imposed upon a permit holder, he shall, upon written request from the permit holder, hold a hearing on such determination within ten days of the extension order; (2) with the approval of the governor, authorize a person or municipality, without hearing and notwithstanding any provisions of sections 22a-365 to 22a-378, inclusive, or the general statutes or any special act to the contrary, to divert such quantities of water as the commissioner deems necessary and proper to ease emergency conditions for a period of thirty days, which period may be extended twice for like periods EXCEPT THAT THE COMMISSIONER SHALL NOT AUTHORIZE A DIVERSION IF SUCH DIVERSION WOULD ADVERSELY IMPACT AN AREA WHERE A PUBLIC DRINKING WATER SUPPLY EMERGENCY HAS BEEN DECLARED PURSUANT TO SECTION 1 OF THIS ACT. In taking such action, the commissioner shall consult with the commissioner of health services and such other state agencies and municipal officials as he deems necessary and advisable.

Sec. 4. This act shall take effect from its passage.

Approved May 30, 1984

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*See P.A. 84-502.

WHEREAS the West Branch of the Farmington River is recognized as having outstanding features by the Nationwide Rivers Inventory; and

WHEREAS this river segment supports significant natural and recreational resources; and

WHEREAS the important role of the state and local governments has been recognized and will be clearly delineated in any forthcoming federal legislation; therefore

RESOLVED: That the Board of Selectman of the Town of Barkhamsted endorses the introduction of a Congressional bill to study the West Branch of the Farmington River for inclusion in the Wild and Scenic Rivers System.

Signed: ____________________

Date: 10·16·84

NOV 07 1984

WHEREAS the West Branch of the Farmington River is recognized as having outstanding features by the Nationwide Rivers Inventory; and

WHEREAS this river segment supports significant natural and recreational resources; and

WHEREAS the important role of the state and local governments has been recognized and will be clearly delineated in any forthcoming federal legislation; therefore

RESOLVED: That the Board of Selectman of the Town of ColeBrook endorses the introduction of a Congressional bill to study the West Branch of the Farmington River for inclusion in the Wild and Scenic Rivers System.

Signed: Burton K. Millard

Date: Nov 5 1984

ENdosED ON OCT. 9-84

Town of Hartland, Connecticut
EAST HARTLAND, CONN. 06027

April 18, 1985

Mr. Ron LeFrancois
c/o Office of Congresswoman
Nancy L. Johnson
119 Cannon Building
Washington, D.C. 20515

Re: Study of the Farmington River for Wild and Scenic River Status

Dear Ron:

It was a pleasure speaking with you today. In reference to our conversation, I have enclosed a copy of the Board of Selectmen Meeting Minutes, dated December 6, 1984.

Please note that on Page 2, Item 5, the Board of Selectmen not only rescinded an earlier vote taken on October 17, 1984 against the funding of this study, but also unanimously voted to approve the funding, even though it is not stated as such in the minutes.

Sincerely,
Town of Hartland

Angie Butmon

Angie Butmon
Secretary

Enc.

Town of Hartland, Connecticut
EAST HARTLAND, CONN. 06027

December 6, 1984

Town Clerk
Town of Hartland
East Hartland, CT 06027

Dear Sir:

Board of Selectmen Meeting Minutes

Date: December 5, 1984

Time: 7:30 p.m.

Place: East Hartland Town Office Building

Present: William L. Flagg, First Selectman
Michael A. Silkey, Selectman
Alfred E. Anderson, Selectman

Guests: Attorney Paul Pasquariello
Neil Gilpin - Hartland Representative to the Farmington River Valley Advisory Committee
Suzy Wilkins - Farmington Valley Watershed Association
Dorothy Fernsten - Hartland Sr. Housing, Inc.
Jean Salling - Hartland Sr. Housing, Inc.
Catherine Riley - Hartford Courant Reporter

1. Meeting called to order at 7:30 p.m.

2. Monthly expense report for November, 1984 reviewed and approved unanimously.

3. Schedule set of Board of Selectmen's meetings for the first Wednesday of each month at 7:30 p.m. for the 1985 Calendar year.

4. Discussed with Attorney Paul Pasquariello, the possibility of holding a Town Meeting for the purpose of deeding 5 acres of Town land from the East Hartland Recreation area to Hartland Senior Housing, Inc. Attorney Pasquariello, presented his views of this action in detail. He stated that according to State Statute 7-131n, if a municipality takes land for any other purpose other than that for which it was purchased, in this case for park or other recreational purposes, the Municipality shall provide comparable replacement land at least equal in value and size to the land taken. The Board of Selectmen voted unanimously against holding a town meeting

Town of Hartland, Connecticut
EAST HARTLAND, CONN. 06027

Town Clerk
Page 2
December 6, 1984
Board of Selectmen Meeting Minutes - December 5, 1984

for the purpose of deeding 5 acres of land to Hartland Senior Housing, Inc.

5. The Board of Selectmen voted unanimously to rescind the vote taken at the Selectmen's meeting held on October 17, 1984, at which time the vote was against the federal funding of a study to determine the desirability of the West Branch of the Farmington River to be included as part of the National Wild and Scenic Rivers System. The recission of the October 17th vote came as a result of a misunderstanding between the Board of Selectmen and Neil Gilpin, Hartland representative to the Farmington River Advisory Committee.

6. The Board of Selectmen voted to request the sum of $653.29 to be appropriated to the Tax Refund line item of the Selectmen's budget. Said appropriation to be requested from the Board of Finance at their meeting to be held on December 12, 1984.

7. Meeting adjourned at 9:05 p.m.

Sincerely,
Town of Hartland
William L. Flagg
William L. Flagg
First Selectman

WLF:atb

Town of New Hartford
NEW HARTFORD, CONNECTICUT 06057

OCT 09 198

September 28, 1984

The Honorable Nancy Johnson
Representative, 6th District
40 South High Street
New Britain, CT 06051

Dear Nancy,

At our meeting on September 24th, the Board of Selectmen unanimously approved the following resolution:

> "Be it resolved that the Board of Selectmen of the Town of New Hartford urges Congresswoman Nancy Johnson to submit a bill to Congress for the study of the West Branch of the Farmington River to determine if it should be designated a "Wild and Scenic River."

We would appreciate your cooperation in this matter. If you have any questions, please contact me, or better yet, Suzanne C. Wilkens, Executive Director, Farmington River Watershed Association, Inc., 195 West Main Street, Box 98, Avon, CT 06001, 678-1241. Thank you for your help.

Sincerely,

Anita Baxter

Anita Baxter
First Selectwoman

dar
cc: Culver Modesette, President, FRWA
Robert LaGoy

WHEREAS the West Branch of the Farmington River is recognized as having outstanding features by the Nationwide Rivers Inventory and

WHEREAS this river segment supports significant natural and recreational resources; and

WHEREAS the important role of the state and local governments has been recognized and will be clearly delineated in any forthcoming federal legislation; therefore

RESOLVED: That the Board of Selectman of the Town of Becke endorses the introduction of a Congressional bill to study the West Branch of the Farmington River for inclusion in the Wild and Scenic Rivers System.

Signed: [illegible] A Hanford

Date: Oct 7 1984

Becket, Massachusetts

WHEREAS the West Branch of the Farmington River is recognized as having outstanding features by the Nationwide Rivers Inventory; and

WHEREAS this river segment supports significant natural and recreational resources; and

WHEREAS the important role of the state and local governments has been recognized and will be clearly delineated in any forthcoming federal legislation; therefore

RESOLVED: That the Board of Selectman of the Town of Tolland endorses the introduction of a Congressional bill to study the West Branch of the Farmington River for inclusion in the Wild and Scenic Rivers System.

Signed:

Date: 1-14-84

Tolland, Massachusetts

United States Department of the Interior
NATIONAL PARK SERVICE
MID-ATLANTIC REGION
143 SOUTH THIRD STREET
PHILADELPHIA, PA 19106

IN REPLY REFER TO

Farmington River Wild and Scenic Legislation

April 16, 1985

Ron Lefrancois
119 Cannon House Office Building
Washington, D.C. 20515

Dear Ron:

As per our phone conversation of April 4, I would like to respond to your questions regarding the restrictions that apply to development on rivers designated under section 5(a) of the Wild and Scenic Rivers Act (P.L. 90-542, as amended), for potential addition to the national system. To reiterate, you inquired about how the "moratorium" on development during the study period might apply to the following situations:

1. Activities within state-owned public lands (e.g., road construction within state forests).
2. Development of homes/buildings with Housing and Urban Development (HUD) or Veterans Administration financing assistance.
3. Water resource projects above or below the potential Wild and Scenic river area.
4. Construction of fish passage facilities.
5. Renewal of National Pollutant Discharge Elimination System (NPDES) permits.

The provisions of the Act are generally quite clear with regard to the activities in question, and I will address each individually below. However, I think it is important to first present a paraphrasing of section 7(b) of the Act, in which is put forth the "moratorium" concept through restricting federally assisted or licensed water resource projects on 5(a) rivers. The Act states:

Year of the Visitor

> "The Federal Power Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse transmission line, or other project works under the Federal Power Act, as amended, on or directly affecting any river which is listed in subsection (a), of this Act, and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse affect on the values for which such river might be designated...(i) during the ten-year period following enactment of this Act or for a three complete fiscal year period following any Act of Congress designating any river for potential addition to the national wild and scenic rivers system, whichever is later...Provided that if any Act designating any river or rivers for potential addition to the national wild and scenic rivers system provides for a period for the study which exceeds such three complete fiscal year period the period provided for in such Act shall be substituted for the three complete fiscal year period...and (ii) during such additional period thereafter as...is necessary for congressional consideration...shall not exceed three years..."

1. Activities within state-owned public lands (e.g., road construction within state forests).

The moratorium, as cited above, applies primarily to federally assisted or licensed water projects such as dams and diversions. Therefore, activities of the nature in question here would not be subject to any additional conditions than those already applying under normal state licensing procedures. However, this segment of the Farmington River is already recognized on the Nationwide Rivers Inventory. Federally assisted or licensed activities occuring within one-quarter mile of either river bank, which will adversely impact the values for which the river has been included on the Inventory, are subject to the provisions of the National Environmental Policy Act (NEPA) as it applies to the Nationwide Rivers Inventory (see enclosed Memorandum to Heads of Agencies). It is important to note however, that this stipulation, and the one-quarter mile "boundry", is independent of the 5(a) designation process being discussed here. During the moratorium period no such corridor boundry is delineated prior to actual designation as a national wild and scenic river, and the adoption of an approved management plan.

2. Development of homes/buildings with Housing and Urban Development (HUD) or Veterans Administration financing assistance.

As described in the previous question, situations not involving federal water projects are not going to be affected by any additional requirements as a result of the moratorium. Construction activities as these which are federally assisted are already subject to the requirements of the Nationwide Rivers Inventory (see above) and will continue to be reviewed in this fashion during the study period.

3. Water resource projects above or below the potential wild and scenic area.

The provisions of section 7(b) previously cited continue by specifically addressing such projects:

> "Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments below or above a potential wild, scenic or recreational river area or on any stream tributary thereto which will not invade the area or diminish the scenic, recreational, and fish and wildlife values present in the potential wild, scenic or recreational rive area on the date of approval of this Act. No department or agency of the United States shall, during the periods hereinbefore specified, recommend authorization of any water resources project on any such river or request appropriations to begin construction of any such project, whether heretofore or hereafter authorized, without advising the Secretary of the Interior and, where national forest lands are involved, the Secretary of Agriculture in writing of its intention so to do at least sixty days in advance of doing so and without specifically reporting to the Congress in writing at the time it makes its recommendation or request in what respect construction of such project would be in conflict with the purposes of the Act and would affect the component and the values to be protected by it under this Act."

Not only then are projects above and below the study area prohibited from adversely impacting the study area, but the burden of proof that such activity will not impact the significant resource values is essentially placed upon the assisting department of agency.

4. Construction of fish passage facilities.

It is not the intent of the Act to categorically prohibit an activity such as this that might actually enhance or restore the resource values for which the designated river was so recognized. Provisions for this activity have been made in several instances. First, Russell E. Dickenson, former Director of the National Park Service, addressed this situation in a letter to the New York Department of Environmental Conservation, when he responded to the following question:

> "Are there any circumstances under which a new dam, diversion structure or any other impediment to the natural free-flowing qualities of a river could be constructed on a designated national river...?"

Director Dickenson's response included the following:

> "...Clearly no major works such as you describe could be approved since they would adversely affect the free-flowing character of the river. However, some fishery management structures could possible be permitted, particularly upstream or downstream of a designated segment, if the outstanding values of a stream included the fishery and a project could be built enhancing that value without eliminating the free-flowing quality of the river."

Second, section 13 of the Act states in subsection (a) that "Nothing in this Act shall affect the jurisdiction or responsibilities of the States with respect to fish and wildlife." More importantly, subsection (e) states that "Nothing contained in this Act shall be construed to alter, amend, repeal, interpret, modify or be in conflict with any interstate compact made by any States which contain any portion of the national wild and scenic rivers system." The Connecticut River Basin Atlantic Salmon Compact, Congressional Consent (P.L. 98-138), the purpose of which is to "...promote the restoration of anadromous Atlantic salmon...in the Connecticut River Basin", was entered into by the states of Connecticut and Massachusetts along with the states of Vermont and New Hampshire. The Farmington River has been named in subsequent research as a vital component of this restoration effort. Thus, construction of fish passage facilities on the Farmington River, which do not impede the free-flowing character of the river (e.g., passage around existing dams), would not be precluded during the study period or upon adoption into the national system.

5. Renewal of National Pollutant Discharge Elimination System (NPDES) permits.

It does not appear that this situation, when occuring during the study period, is addressed in the Act. Water pollution is specifically discussed in section 12(c), but applied only to rivers which are components of the national system, rather than potential additions under 5(a):

> "The head of any agency administering a component of the national wild and scenic rivers system shall cooperate with the Secretary of the Interior and with the appropriate State water pollution control agencies for the purpose of eliminating or diminishing the pollution of waters of the river."

Furthermore, "water resource projects", restricted under section 7(b), are not explicitly defined in the Act to include discharge permits. Therefore, it does not appear that the NPDES renewal process will be affected under the moratorium.

At this point I have not made a formal request of the Regional Solicitor for an opinion on this question. However, his office is researching the case law to determine if there have been any decisions that could help clarify this point. So far, it is their impression that such a decision has not occurred. Still, the states of Connecticut and Massachusetts may wish to be insured that the NPDES process will not be hindered. Yet at the same time, it is important that during a period potentially as long as six years, the waters of the Farmington not be degraded (e.g., Connecticut's water quality regulations do include an anti-degratory policy, but as most states, with provisions for exception due to "necessary economic or social development"). It could be a consideration then (if needed) to address this specifically in the wording of the Farmington legislation, clarifying the point in a manner which insures that all interests in this case are satisified.

I hope that this information adequately covers your questions. If any of these points require further elaboration or substantiation, or any similar questions arise, please feel free to contact me at (215) 597-5880, or J. Glenn Eugster, Chief, Division of Park and Resource Planning at (215) 597-7386.

Sincerely,

Andrew Raddant
Outdoor Recreation Planner

Nationwide
Rivers
Inventory

Final List of Rivers

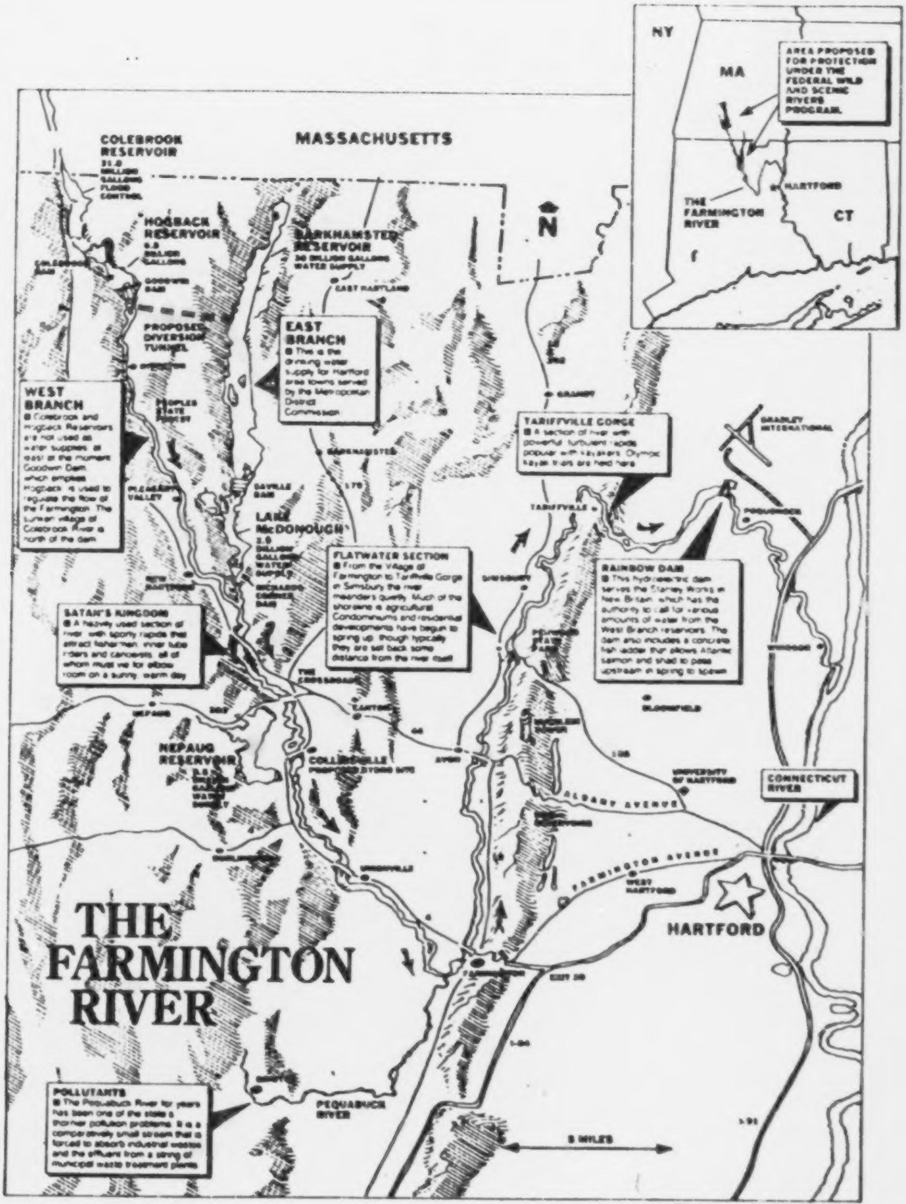
U. S. Department of the Interior
Northeast Regional Office
Heritage Conservation and Recreation Service
Philadelphia, Pa.
January 1981

NATIONWIDE RIVERS INVENTORY

Page 4 of 4

State Connecticut

River Name	River Segment #	Physiographic Section	Other State(s)	County(s)	Congressional District(s)	Segment Reach Description	Length (miles)	Development Point Index	Outstandingly Remarkable Values								Narrative Description of Values
									Scenic	Recreation	Geologic	Fish	Wildlife	Historic	Cultural	Other	
Scantic River		9b	MA	Hampden Tolland	2 2	Hampden to headwaters	5						X				Wildlife (Segment includes Laughing Brook Wildlife Area, a Potential National Natural Landmark.)
West Branch of the Farmington River		9b		Hartford Litchfield	6	Above New Hartford to the West Branch Reservoir	7			X	X	X					Recreation (A unique diversity of flow gradients including flatwater-quickwater segments and easy rapids. River is in close proximity to urban populations in Hartford.) Fish (River is currently being restored as an Atlantic Salmon fishery.) Geologic (River related land-form and topography unique to the New England Upland section.)
Wood River		9b	RI	Washington Kent New London Windham	2 2	Ten Rod Road to headwaters	5			X							Recreation (Segment is in close proximity to the urban population centers of southeastern New England and includes recreation features including a trout fishery, a trail network, and Class II canoe waters.)


THE FARMINGTON RIVER
MASSACHUSETTS
N
COLEBROOK RESERVOIR
31.0 BILLION GALLONS FLOOD CONTROL
HOGBACK RESERVOIR
8.8 BILLION GALLONS
COLEBROOK DAM
GOODWIN DAM
BARKHAMSTED RESERVOIR
30 BILLION GALLONS WATER SUPPLY
EAST HARTLAND
PROPOSED DIVERSION TUNNEL
RIVERTON
PEOPLES STATE FOREST
BARKHAMSTED
SAVILLE DAM
LAKE McDONOUGH
2.5 BILLION GALLONS WATER SUPPLY
RICHARDS CORNER DAM
PLEASANT VALLEY
NEW HARTFORD
THE CROSSROADS
CANTON
COLLINSVILLE
NEPAUG RESERVOIR
UNIONVILLE
AVON
SIMSBURY
GRANBY
TARIFFVILLE
BRADLEY INTERNATIONAL
POQUONOCK
WINDSOR
BLOOMFIELD
UNIVERSITY OF HARTFORD
ALBANY AVENUE
FARMINGTON AVENUE
WEST HARTFORD
HARTFORD
CONNECTICUT RIVER
EXIT 39
I-84
I-91
PEQUABUCK RIVER
5 MILES
NY
MA
CT
HARTFORD
THE FARMINGTON RIVER
AREA PROPOSED FOR PROTECTION UNDER THE FEDERAL WILD AND SCENIC RIVERS PROGRAM.

WEST BRANCH
■ Colebrook and Hogback Reservoirs are not used as water supplies, at least at the moment. Goodwin Dam, which empties Hogback, is used to regulate the flow of the Farmington. The sunken village of Colebrook River is north of the dam.

EAST BRANCH
■ This is the drinking water supply for Hartford area towns served by the Metropolitan District Commission.

TARIFFVILLE GORGE
■ A section of river with powerful, turbulent rapids popular with kayakers. Olympic kayak trials are held here.

FLATWATER SECTION
■ From the Village of Farmington to Tariffville Gorge in Simsbury the river meanders quietly. Much of the shoreline is agricultural. Condominiums and residential developments have begun to spring up, though typically they are set back some distance from the river itself.

SATAN'S KINGDOM
■ A heavily used section of river with sporty rapids that attract fishermen, inner tube riders and canoeists, all of whom must vie for elbow room on a sunny, warm day.

RAINBOW DAM
■ This hydroelectric dam serves the Stanley Works in New Britain, which has the authority to call for various amounts of water from the West Branch reservoirs. The dam also includes a concrete fish ladder that allows Atlantic salmon and shad to pass upstream in spring to spawn.

POLLUTANTS
■ The Pequabuck River for years has been one of the state's thornier pollution problems. It is a comparatively small stream that is forced to absorb industrial wastes and the effluent from a string of municipal waste treatment plants.

Phil Lohman / The Hartford Courant

Senator Wallop. I thank you very much, Congresswoman Johnson. I have it here, and we will review it all. I appreciate your giving us a hand this morning. Thank you very much. I see that Senator Weicker has a statement for the record on this bill.

[The prepared statement of Senator Weicker follows:]

Statement of Senator Lowell Weicker, Jr.
Senate Public Lands, Reserved Water and Resource Conservation Subcommittee
Regarding S. 1946, the Farmington Wild and Scenic River Study Act

April 11, 1986

Mr. Chairman, I am pleased to present testimony today in support of S. 1946, the Farmington Wild and Scenic River Study Act. This legislation, which is co-sponsored by my colleague from Connecticut Senator Dodd, designates the West Branch of the Farmington River as a study area for inclusion in the National Wild and Scenic River System. S. 1946 is the Senate counterpart to H.R. 2191, a bill introduced in the House by Representative Nancy Johnson of the Sixth Congressional District of Connecticut, the district where a major portion of the river is located.

Mr. Chairman, Connecticut ranks fourth among the fifty states in population density with 647 residents per square mile of land area. No one would expect with this density that there would be any area that could be classified as wild or scenic. Yet in the midst of this urban population and located only twelve miles from Hartford, Connecticut's second largest city, there lies a river, the Farmington, that posseses a unique diversity of natural, cultural, historic, scenic and recreational values.

The seven miles of the Farmington in Connecticut and the eleven miles of the river in Massachuetts to be studied under S. 1946, were identified as segments that would potentially qualify for the National Wild and Scenic Rivers System in the Nationwide Rivers Inventory published by the National Parks Service in 1982. By including the Farmington, the Park Service recognized the unique resources that demonstrate the river to be of national significance and worthy of conservation.

A mere listing of these resources does not do the river justice. Special attention should be paid to the fact that the river is an exceptional recreational resource and one of New England's outstanding sport fisheries. Connecticut's largest trout fishery is supported by the river and the New England River Basins Commission recognized it as an important cold water fishery.

The Farmington also plays a role in the Connecticut River Basin Atlantic Salmon Restoration Program. Its part in this program could make the Farmington an important salmon sport fishing area.

The rivers recreational potential is immense and its use is growing every year. There is white water canoeing and kayaking through the river's gorges and rapids . One segment of the river, the Tariffville Gorge, is used for the National Olympic Kayaking Trials and the National Poling Championship.

Twenty sites in the river corridor have been recognized as National Historic Landmarks and National Historic Register sites. The Farmington River has come a long way since the 1950's when it was considered an open sewer. In fact, the water quality efforts along the river are now recognized by the Department of Interior as a proven example of intergovernmental and private efforts that have led to the river's excellent water quality today. This important job is never complete and there is continued support for ongoing purification efforts along the Farmington.

The Farmington River Watershed Association deserves much of the credit for its efforts over the past 32 years to encourage conservation of the natural resources of the Farmington River and for its many contributions to improve the river's water quality. The association has always been in the forefront of protecting and enhancing the river's resources.

As the Farmington River comes under increased pressure of conflicting interests that could bring deterioration of its unique resources, it is imperative that we maintain, preserve, and protect this resource for the future.

Beginning in 1980, the citizens in northwest Connecticut took an active interest in preserving the Farmington river through federal legislation. In 1982, the state Department of Environmental Protection (DEP) and the Farmington River Watershead Association (FRWA) requested the assistance of the State and Local River Conservation Assistance program of the National Park Service to identify special values along the Farmington River and develop a strategy to protect them.

Based on the recommendations of the Farmington River Strategy, legislation was introduced by Representative Nancy Johnson in the first session of the 99th Congress to designate two segments of the Farmington River as potential components of the federal Wild and Scenic River System. Hearings were held on H.R. 2191 on October 22, 1985 by the House Subcommittee on National Parks and Recreation.

In response to concerns that were expressed by subcommittee members during that hearing, several changes have been made to the original text of this Wild and Scenic Study Bill. These changes are reflected in the Omnibus Rivers Bill, H.R. 4350, sponsored by Congressman Vento and co-sponsored by Congresswoman Johnson among others.

In brief, these changes have clarified the leadership role that the National Park Service and the Secretary will take in conducting the study. Specific changes include the requirement that management alternatives be developed only if the river is found suitable for inclusion in the federal program, the selection of advisory comittee members by the Secretary of Interior instead of selection by state and local entities , and the increase in committee membership from 15 to 17 to balance the membership of the FRWA with the Metropolitan District Commission (MDC).

It is important to note that these changes have :

- not altered the original intent of the legislation to study the potential of the Farmington River for inclusion in the Wild and Scenic River System.

- brought this legislation more in line with similar attempts to study rivers in other parts of the country for Wild and Scenic potential.

- been supported by those parties which have an interest in the future of the river and have been involved in the negotiation process since 1982.

I believe the amendments proposed by the House are both reasonable and responsive to the concerns expressed by those who have submitted comments on the bill. Therefore, when this committee marks-up S. 1946, I intend to offer an amendment in the nature of a substitute that will make this bill conform to the Farmington River provisions (Section 202) of H.R. 4350.

In carrying out the study of the Farmington, it is my hope that the Secretary would designate the Boston Regional Office of the National Parks Service as the lead office in this effort. Given the experience that office gained through conducting the recreational study of the river in 1982, it is important that the staff of that office be allowed to apply its experience to the study authorized in S. 1946. In addition, I believe that the Park Service should be instructed not to consider federal land acquisition under this river conservation study. Given the current pattern of land ownership in the Farmington River Valley, any future river management plan should rely on existing local land use controls, state authorities, and voluntary private sector and landowner actions.

Mr. Chairman, it is important that legislation to begin the study process on the Farmington River be enacted by the Congress this year. By reporting H.R. 4350 which includes the Farmington bill under Section 202, the House Committee on Interior and Insular Affairs has brought us one step closer to accomplishing this objective. The passage of this bill in the House on April 8, has given even more momentum to this effort. It is my hope the committee will build on this momentum by reporting the Farmington River bill at the earliest possible date.

Senator **Murkowski**. Mr. Chairman, I wonder if I could make an inquiry.

Senator **Wallop**. By all means.

Senator **Murkowski**. Thank you, Mr. Chairman.

I was just reviewing Senate bill 1374 and the accompanying comments. If my interpretation is correct, the formation of the Blackstone River National Heritage Corridor in Massachusetts and Rhode Island was not recommended by the National Park Service.

There is a request here for continued Federal assistance. It is my understanding that that Federal assistance amounts to $500,000 per year. I am concerned with the ramifications of this. While I commend my colleagues and obviously the people in those States who are interested in having this facility, it seems that the ratio lacks a little in the way of local participation.

I believe there was a $1 million bond issue passed for acquisition and development of the park system. Here we have a request for $500,000 per year for maintenance and $2 million initially for development.

In view again of the fact that it was not recommended to be included in the National Park System, I think that it deserves more participation from the two States. The fact that the States have no experience in creating a historic park or visitors' centers, it is obviously an obligation of the State to make a determination of whether they want to prioritize that kind of service, and many States undertake that responsibility themselves.

So I would express grave reservations, Mr. Chairman, from the standpoint of the precedent being set here of States that want to set aside areas for development, but look to the Federal Government for funding at a time when we all know the budgetary crisis dictates scrutiny of priorities.

Senator **Wallop**. Well, even without that, it is one of those more complicated issues that this committee consistently confronts. And I appreciate your statement on it. It is obviously one of the areas that we will have to examine, and in that examination we will have to put the stamp of the congressional priority as well as those of the States involved.

It could be that we will find some means by which to have a Federal participation with slightly larger State participation. I think that it is one of the things that will take us a little time to state, and I would think we would take that up with the affected members of their State governments to see what the willingness might be.

Senator **Murkowski**. I wonder, Mr. Chairman, if you are aware of the position the administration has taken?

Senator **Wallop**. Well, the administration will be stating that here directly.

Senator **Murkowski**. Thank you, Mr. Chairman.

Senator **Wallop**. There is a rollcall now. Congressman Early, come in. And I haven't seen Senator Hatch. We will start on my return with either of those two, but I would ask in my absence if Deputy Director Denis Galvin of the National Park Service, Special Assistant Dave Tidwell, and Deputy Chief Lamar Beasley would come to the table and be prepared.

What we will do——

Senator Murkowski. I would chair for a few minutes.

Senator Wallop. Do you want to do that?

We will do that. I will go vote and Senator Murkowski will chair, and I appreciate that very much.

Senator Murkowski. I would be happy to do that, Mr. Chairman. We will proceed with the witnesses, then.

Senator Murkowski [presiding]. Mr. Denis Galvin, Deputy Director, National Park Service; Mr. David Tidwell, Special Assistant to the Director, Bureau of Land Management; J. Lamar Beasley, Deputy Chief, Forest Service.

And I have got three names and you have got four. Would you please introduce your colleague, the fourth member, the person that was not introduced.

Mr. Galvin. I have asked Mr. Jack McHale, from the Office of the Solicitor, Department of Interior, to assist me.

Senator Murkowski. Fine. Please proceed, Mr. Galvin.

STATEMENT OF DENIS P. GALVIN, DEPUTY DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY DAVID P. TIDWELL, SPECIAL ASSISTANT TO THE DIRECTOR, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR; AND JACK McHALE, OFFICE OF THE SOLICITOR, DEPARTMENT OF THE INTERIOR

Mr. Galvin. I have testimony this morning on five of the bills discussed earlier. The first one is S. 977, the proposed Hennepin Canal National Heritage Corrider. The Hennepin Canal was conveyed to the State of Illinois in 1970 by the U.S. Army Corps of Engineers.

One of the purposes of S. 977 is to require that the U.S. Government fulfill its contractual responsibilities with the State of Illinois in 1970. We recommend against enactment of S. 977. It confers a national designation on a feature that has not been determined to be nationally significant.

The bill does not authorize the Hennepin Canal as a unit of the National Park System. It only states that it would join with the Illinois and Michigan National Heritage Corridor. Unlike the I&M Canal, the Hennepin Canal has not been determined to be nationally significant.

We oppose the enactment of S. 977 since the level of significance determined during the National Register study was at the State level. We believe that it is appropriate for the State to seek matching grants under the Land and Water Conservation Fund Act of 1965. We believe the State-owned Hennepin Canal should compete with other State needs for such grant funds as may be available under existing programs.

As to the contractual responsibilities of the United States asserted in the bill, we are unaware of any such responsibilities, and we would defer to the Corps of Engineers.

Incidentally, Mr. Chairman, I do have prepared statements and will be submitting them for the record.

Senator Murkowski. Your entire statement will be entered into the record.

Mr. GALVIN. The second bill is the Blackstone River Valley National Heritage Corridor. A study was authorized in the conference report dated September 30, 1983, and $100,000 was made available for that study. Among the other purposes of the study was the need to determine if its historical significance is such that it should be included in the National Park System.

The important conclusion of the study that relates to this bill is as follows: The Blackstone corridor is not recommended——

Senator MURKOWSKI. That is S. 1374?

Mr. GALVIN. That is correct.

While the area is of national significance to American industrial history and does contain certain themes underrepresented in the National Park System, overall resources lack the integrity necessary for a national park. For an area whose resources have been found to be lacking in the necessary integrity, the bill requires the National Park Service to do a number of things, including a rather significant diversion of money and personnel.

I believe the bill contemplates four people to be detailed to a commission that would be created by the legislation. We believe S. 1374 places the National Park Service in an inappropriate role. We believe the appropriate role of the National Park Service here is technical assistance.

Senator MURKOWSKI. Excuse me. I have been advised that the rollcall votes are going to be held to 15 minutes and we have got less than 6.

We will just recess now. I apologize, but the bell dictates otherwise.

It should not be but a few minutes before Senator Wallop returns.

[Recess.]

Senator WALLOP [presiding]. You all will have to tell me where you left off. Go ahead.

Mr. GALVIN. Thank you, Mr. Chairman.

On H.R. 3556, which authorizes an exchange of land between the Secretary of the Army and the Secretary of the Interior with respect to the Cape Henry Memorial Cross, we strongly recommend enactment of that House-passed legislation.

We have no objection to the enactment of S. 1946, the West Branch of the Farmington River, if the bill is amended, and I believe the testimony that I heard Congresswoman Johnson give would adequately amend the bill in respect to our recommendations.

We have no estimate of the cost of the study that the bill requests. However, for the past several years we have provided technical assistance to communities along the Farmington River that are interested in non-Federal management options for the river resource. This assistance has been in the form of identifying resources and management options, and the results of much of this work can be used in the study proposed in S. 1946.

Accordingly, we believe that any additional funds required will be minimal.

Finally, Mr. Chairman, I would like to summarize my submitted testimony on S. 2265, the Burr Trail National Rural Scenic Road. S. 2265 would authorize the establishment of the Burr Trail National Rural Scenic Road as a unit of the National Park System, contingent upon two items: One, the Secretary entering into a contract with the State of Utah; and two, the Secretary and the State certifying to each other that adequate lands and funds are available to accomplish the purposes of S. 2265.

S. 2265 provides for transfer of a right-of-way from the Bureau of Land Management to the National Park Service, authorizes the Secretary to accept the donation from the State of Utah of a right-of-way subject to reverters, directs the Secretary to promulgate regulations for traffic and public use with specific exceptions, allows grazing to continue pursuant to existing law within the two units of the National Park System, and pursuant to the Federal Land Policy and Management Act outside of those two units.

Also under the regulations, provision is made for not limiting use of the road by those who have an existing proprietary right of use, ingress, and egress to the road. Further, the Secretary is authorized to transfer funds to the State for design and construction of the road.

And finally, there is an authorization for appropriation of funds provided that no funds may be used for land acquisition.

We recommend that S. 2265 be enacted if amended. We have not completed our final legal and technical review of some of the provisions of the bill and may have some additional comments or amendments which we will provide later to the committee.

In Public Law 99-190, $8.1 million was appropriated subject to authorization for the purpose of constructing the Burr Trail National Rural Scenic Road and for the construction of an interpretive facility in Boulder, UT. S. 2265 would provide the authorization contemplated in that appropriation act. In section 1 of the bill, we recommend an amendment to clarify that the total amount of funds certified be limited to those funds already appropriated. We cannot, of course, certify to the availability of future funding.

As envisioned by Director Mott, the Burr Trail would be more rustic in nature than other parkways currently in the national system, and that is the basis for the new nomenclature. The Director's concept of the road is that it would adhere closely to present horizontal and vertical alignments and cross sections but would be improved to a gravel surface.

There are portions of the road—where erosion is a significant problem or where safety may be a problem—that should be paved, and in the accompanying documents—the contract with the State—those portions are specified.

The total cost of the project is $16.4 million. The $8.1 million has been subject to the two-tenths of 1 percent congressional reduction and 4.3 percent Gramm-Rudman reduction, which reduces the total available to $7.7 million.

To date, the State has appropriated $600,000 for preliminary engineering work and has identified an additional $3.1 million for the State's portion of the project. We anticipate operating costs for the first year to be $800,000. That includes capital investment, largely for equipment, of $350,000.

Annual recurring costs are estimated to be $450,000 per year. I might say, Mr. Chairman, those estimates are quite preliminary.

We would promulgate regulations that would limit the road to noncommercial vehicle use, with three exceptions, and they are outlined in the legislation and in my prepared testimony. As I mentioned earlier, grazing would continue under current law.

We are concerned with the final proviso of section 4 and recommend that it be deleted. Our understanding is that the intention is to insulate the State and/or county from any litigation or money judgments. The language attempts to achieve a save-and-hold-harmless provision, and as a matter of policy we oppose such legislation.

This is because of the Anti-Deficiency Act, which requires that an officer or employee of the United States may not enter into a contract or obligation to pay money before it is appropriated.

We believe the State and/or county's concerns over liability are not well founded. The transfer of land will not create State and/or county liability, and the State and/or county would not be a proper party to any subsequent lawsuit.

We believe that this proviso is duplicative and redundant of the restrictions set in the opening provisions of section 4. Any limited regulation of the road could not—by any stretch of the imagination—result in liability to the State. Liability will not result from the land transfer, and any limited regulatory action as limited by this section would be exclusively a Federal act.

Section 5 we believe has a provision that should be amended to delete the language "such sums as may be necessary and available" and insert "such sums as have been appropriated to the National Park Service under Public Law 99-190 as amended by Public Law 99-177." This amendment would specifically limit the funds to be provided by the Federal Government for this project to that sum which has already been appropriated.

There is one other provision we believe should be deleted, Mr. Chairman. That is the proviso at the end of the authorization for appropriations. This proviso precludes the expenditure of funds for land acquisition. While it is not our intent to spend any funds for land acquisition, we nonetheless believe that this type of restriction is unnecessary.

Mr. Chairman, we have been working with the congressional delegation from Utah and representatives from the State and the county on a draft contract and a draft deed, as specified in the language. Though they are in an incomplete draft form, we would be pleased to make them available.

We believe that we have made good progress to date on implementing the establishment of this unit of the National Park System, and I believe, Mr. Chairman, that all parties to those negotiations have been bargaining in good faith.

That concludes my prepared testimony.

Senator WALLOP. If you would make copies of those available to us, the committee would appreciate it.

[The prepared statement of Mr. Galvin and the requested material follow:]

STATEMENT OF DENIS P. GALVIN, DEPUTY DIRECTOR, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER, AND RESOURCE CONSERVATION, SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, CONCERNING LEGISLATION TO ESTABLISH THE HENNEPIN CANAL NATIONAL HERITAGE CORRIDOR, THE BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR, PROVIDING FOR AN EXCHANGE AT CAPE HENRY MEMORIAL, TO AMEND THE WILD AND SCENIC RIVERS ACT TO INCLUDE WEST BRANCH FARMINGTON RIVER FOR STUDY, AND TO ESTABLISH THE BURR TRAIL NATIONAL RURAL SCENIC ROAD.

April 11, 1986

S. 977 - Proposed Hennepin Canal National Heritage Corridor

S. 977 would establish the Hennepin Canal National Heritage Corridor, the longest manmade waterway corridor in Illinois, built between 1890 and 1907, by the U.S. Army Corps of Engineers. The bill recites that the Hennepin Canal was conveyed to the State of Illinois in 1970 by the U.S. Army Corps of Engineers under an agreement that Federal funds would be made available for restoration and rehabilitation; however, we understand that funding was never made available to the State. S. 977 states as its purpose, therefore, to require that the United States Government fulfill its contractual responsibility with the State of Illinois dated 1970 to help develop, retain, and enhance the various resources. There is no direct authorization for appropriations, but there is an implied request for funds so that the Federal Government would fulfill the terms of the 1970 contract.

We recommend against enactment of S. 977. It confers a national designation on a feature that has not been determined to be nationally significant.

At the outset we should point out that the bill does not authorize the Hennepin Canal as a unit of the National Park System. It only states that it would join with the Illinois and Michigan Canal National Herritage Corridor which was established in 1984. However, unlike the I and M Canal, the Hennepin Canal has not been determined to be nationally significant. The statement on page 2 of the bill as to its national significance is in error. Even if the bill would authorize it as a unit of the Park System, we would oppose the enactment of S. 977 since its level of significance was determined to be only at the "State level" when it was listed on the National Register of Historic Places on May 22, 1978. Further, we already administer several canals of greater historical significance than the Hennepin Canal. Among these are the Chesapeake and Ohio Canal National Historical Park; the canal system that led to the industrial revolution in Lowell, Massachusetts, and an integral part of the Lowell National Historical Park; and the Chesapeake and Erie Canal which is an integral part of Cuyahoga Valley National Recreation Area.

We believe that States should be encouraged to develop resources of local and regional significance for public recreation. In the absence of a legal responsibility to provide Federal assistance we believe the State-owned Hennepin Canal is a State responsibility and should be funded by State sources. As to the "contractual responsibilities of the United States" asserted in the bill, we are unaware of any such responsibilities. We defer to the Corps of Engineers and its views on the nature of the Federal responsibility for the canal.

S. 1374--Blackstone River Valley National Heritage Corridor, Massachusetts and Rhode Island.

The statement of conferees accompanying the conference report for the Department of the Interior and Related Agencies Appropriations Act, 1984, dated September 30, 1983, included the following paragraph at page 13 of the report:

> "The conference agreement includes $100,000 for the National Park Service to assist Massachusetts and Rhode Island in the development of an implementation strategy for the future conservation, management, and use of the Blackstone River corridor to determine if its historical significance is such that it should be included in the National Park System. A portion of the assistance should focus on, but not be limited

> to, the following tasks: (1) an interpretive management plan, (2) preservation guidelines, and (3) canal restoration assistance. The managers expect the North Atlantic Regional Office to conduct this effort with the assistance of the Denver Service Center and the Mid-Atlantic Regional Office."

In accordance with that paragraph, a report was prepared by the National Park Service and the States of Massachusetts and Rhode Island on the significance of the historic and cultural values of the Blackstone River Valley, including conservation options. The report concluded that,

> "The Blackstone corridor is not recommended for consideration as a national park. While the area is of national significance to American industrial history and does contain certain themes underrepresented in the National Park System, overall resources lack the integrity necessary for national parks."

For an area whose resources have been found to be lacking in the necessary integrity for national parks, this bill would (1) establish a national corridor designation; (2) create a 19-member Federal commission, plus staff, to prepare and implement a preservation plan; (3) require the National Park Service to assist the commission in planning; (4) require the National Park

Service to design and fabricate interpretive materials, including guide brochures, video presentations, and a mobile display; and (5) require the National Park Service to detail, without reimbursement, four employees to the commission.

We believe S. 1374 places the National Park Service in an inappropriate role, given the nature of these resources. The requirements of the bill represent a significant diversion of money and personnel from preservation and interpretation of areas that are now within the National Park System. With the need to reduce Federal expenditures, our funds and personnel must continue to be focused on the resources of the parks.

Although four employees may seem insignificant, several parks are now operating with four or fewer employees. Bering Land Bridge National Preserve, Alaska; Big Hole National Battlefield, Montana; Coronado National Memorial, Arizona; Eugene O'Neill National Historic Site, California; Fort Union Trading Post National Historic Site, North Dakota; and Fossil Butte National Monument, Wyoming, are among the existing park areas that operate with four FTE's. Future National Park Service budgets are not likely to include requests for additional personnel, Mr. Chairman. If additional responsibilities are placed on our operating budget, such as would be the case under S. 1374 for areas that do not qualify for park status, we are concerned that existing park areas must cut back on essential visitor services and resource protection.

Technical assistance to the States of Massachussetts and Rhode Island is the appropriate role for the National Park Service for the Blackstone River Valley. Such assistance is already authorized in the National Historic Preservation Act, and during the course of the study referred to earlier we provided such technical assistance to the states. Further, we believe a national designation is not appropriate for an area that lacks the necessary historical integrity. Accordingly, we recommend against the enactment of S. 1374.

H.R. 3556 - Cape Henry Memorial Land Exchange

We strongly recommend enactment of H.R. 3556, as passed by the House.

H.R. 3556, as passed by the House, would authorize a land exchange between the Secretary of the Interior and the Secretary of the Army, for the purposes of relocating the Cape Henry Memorial Cross, which commemorates the first landing of the English colonists who later established the Jamestown Colony in 1607.

The Cape Henry Memorial Cross was transferred from the Department of the Army to the Department of the Interior, to be administered as part of the Colonial National Historical Park, under the authority of the Joint Resolution approved June 15, 1938 (52 Stat. 695).

In 1981 the 0.23-acre site was threatened by shoreline erosion and the Cross was relocated onto Department of the Army land farther back from the shore for protection. At that time the Department of the Army agreed to issue a permit for the use of the new site and to support the necessary legislation to exchange land with the Department of the Interior so that the National Park Service would have a site upon which to place the Memorial Cross. H.R. 3556, as passed by the House, would give the Department of the Interior jurisdiction over the 0.23-acre of land upon which the Memorial Cross is now situated and would return jurisdiction of the 0.23- acre former site of the Memorial Cross to the Department of the Army, Fort Story Military Reservation. If enacted, this legislation would replace a special use permit which exists between the Department of the Army and the Department of the Interior for the use of this land.

S. 1946--West Branch Farmington River for study.

We have no objection to the enactment of S. 1946, if the bill is amended as suggested in my statement.

S. 1946 would designate two segments of the West Branch of the Farmington River in Connecticut and Massachusetts for study as potential components of the Wild and Scenic Rivers System. A suitability report to the President by the Secretary of the Interior would be required within three complete fiscal years of enactment. Section 4 of the bill would require, as a part of the study, separate and detailed analyses of management alternatives; and section 5 would establish a 15-member study committee to cooperate with the Secretary.

The two segments to be studied under S. 1946--seven miles in Connecticut and 11 miles in Massachusetts--were identified as segments that would potentially qualify for the national system in the Nationwide Rivers Inventory published by the National Park Service in 1982. Among the river values identified in the inventory were white-water rapids for recreational river running and the Atlantic salmon fishery, which is being restored.

Section 4(a) of the Wild and Scenic Rivers Act directs the Secretary of the Interior to study and submit to the President a report on the suitability for addition to the national system of river segments designated by the Congress. Such reports must show the characteristics of the area; status of land ownership and use; potential uses that would be enhanced, foreclosed, or curtailed; and the extent, including costs, of any propsed State and local administration. Section 4(b) of the Act requires the Secretary to submit the proposed suitability report to the State or States in which the river segments are located and to include any resulting comments or recommendations in the transmittal of the report to the President and the Congress. We believe these requirements are adequate to provide information on the impacts of including a potential river segment in the national system. The detailed analyses required in section 4 of S. 1946 are therefore redundant, and we recommend that section 4 be deleted.

We also recommend that section 5, which establishes a Farmington River Study Committee, be deleted. The members of the committee would be appointed by State and local governmental officials, except for one member appointed by the Secretary. We believe the requirements of section 4 of the Wild and Scenic Rivers Act, referred to above, are adequate to assure the concerns of State and local governments are addressed in the study. Further, to the extent that this is proposed to be a Federal committee, its members should be appointed by the Secretary.

We have no estimate of the cost of a study under the bill if it is amended as we recommend. However, for the past several years we have provided technical assistance to communities along the Farmington River that are interested in non-Federal management options for the river resource. This assistance has been in the form of identifying resources and management options, and the results of much of this work can be used in the study proposed in S. 1946. Accordingly, we believe that any additional funds required will be minimal.

S. 2265 - Burr Trail National Rural Scenic Road

S. 2265 would authorize the establishment of the Burr Trail National Rural Scenic Road, Garfield County, Utah, as a unit of the National Park System contingent upon two items being accomplished. They are:

1. The Secretary enters into a contract with the State of Utah; and

2. The Secretary and the State certify to each other that adequate lands and funds are available to accomplish the purposes of S. 2265.

S. 2265 provides for the transfer of a right-of-way from the Bureau of Land Management to the National Park Service as well as authority, for the Secretary to accept a donation from the State of Utah of a right-of-way subject to reverters and conditions the

Secretary determines to be consistent with the legislation. It also directs the Secretary to promulgate regulations for traffic and public use with specific exceptions allowed for stock trucks, State/County/Interior maintenance vehicles and equipment, and busses that do not exceed 96 inches in width. Under the regulations, grazing is to continue pursuant to law within the two units of the National Park System and pursuant to the Federal Land Management Policy Act outside of those two units and adjacent to the Road. Also under the regulations, provision is made for not limiting use of the Road by those who have an existing proprietary right of use, ingress and egress to the Road. Further, the Secretary is authorized to transfer funds to the State for the design and construction of the Road. And, finally, there is an authorization for appropriation of funds provided that no funds may be used for land acquisition.

We recommend that S. 2265 be enacted, if amended to address our primary concerns which we will discuss. We would note, however, that we have not completed our final legal and technical review of some of the provisions of the bill, and may have some additional comments or amendments which we will provide later to the Committee.

In Public Law 99-190, $8.1 million was appropriated, subject to authorization, for the purpose of constructing the Burr Trail National Rural Scenic Road, an unimproved road in Garfield

County, Utah, and an interpretive facility in Boulder, Utah. The route would have as its western terminus the Town of Boulder in which we would construct an interpretive facility. The road then would traverse the Escalante Canyon-Circle Cliffs region, wind down the Waterpocket Fold, join the Notom Road, and then proceed southeast to Bullfrog on the shore of Lake Powell. Of the 66 miles of road that would be authorized to be established as a unit of the National Park System, about 16 miles of the road cross land administered by the National Park Service within Glen Canyon National Recreation Area and Capitol Reef National Park. Approximately 3 miles of the road cross State of Utah school sections, and the remaining 47 miles cross lands administered by the Bureau of Land Management.

In section 1 of the bill, we recommend an amendment to clarify that the total amount of the funds certified to be available from the Federal Government be limited to those funds already appropriated for design and construction of the Burr Trail National Rural Scenic Road in Public Law 99-190, as amended by Public Law 99-177. We cannot, of course, certify to the availability of future funding.

As envisioned by Director Mott, the Burr Trail would be more rustic in nature than parkways currently in the National Park System and, therefore, he decided that a new nomenclature is necessary to describe it more accurately. As such, the Burr Trail National Rural Scenic Road would generally adhere to the present horizontal and vertical alignment and cross section but would be improved to only a gravel surface. However, the most critical portions of the Road, along the switchbacks, would be paved to maintain public safety and to prevent further erosion. Under the provisions of S. 2265, the National Park Service would fund the construction of the approximately 16 miles of Road within the two units as well as the construction of an interpretive facility. The construction of the remaining 50 miles of Road would be funded by the State of Utah.

Initial estimates indicate that the total cost of constructing this project is $16.4 million, of which the Federal Government will pay $8.1 million and the State/county will pay $8.3 million. The cost estimate includes the $8.1 million appropriated to the National Park Service under Public Law 99-190. However, the National Park Service only has available $7.705 million, or a reduction of $395,000 as a result of the 0.2% Congressional and 4.3% Gramm-Rudman reductions. To date the State has appropriated $600,000 for preliminary engineering work, and recently has further identified $3.1 million for the State's portion of this project.

We anticipate that once completed and formally established, the cost of operating this new unit of the National Park System for the first year would be $800,000. This total includes a one-time capital investment of $350,000, annual recurring costs of $260,000, and $190,000 annually for 7.9 FTE's. The cost of operating this new unit would thereafter cost approximately $450,000 per year.

Once formally established, Mr. Chairman, we would promulgate regulations that require noncommercial vehicle use of the Road, with only three exceptions: Stock trucks; maintenance equipment and vehicles of the State, County, and the Department; and busses that do no exceed 96 inches in width. Grazing would continue under current law. However, we are concerned with the final proviso of section 4 and, therefore, recommend that it be deleted. This provision, we are advised, is intended to insulate the State and/or County from any litigation or money judgments that may result from the National Park Service's regulation of the Road. The language attempts to achieve a "save and hold harmless" provision. As a matter of policy, we are opposed to legislation creating "save and hold harmless" arrangements because under existing law this Department cannot indemnify the State and/or County against lawsuits or future judgments because of the Anti-Deficiency Act (31 U.S.C. 1341(B)). This Act essentially provides that an officer or employee of the United States Government may not enter into a contract or obligation to pay money before it is appropriated, unless Congress expressly provides this authority. The proviso clause as drafted does not establish an exemption from this Anti-Deficienty Act.

Furthermore, in our judgment, the State and/or County's concerns over liability are not well founded. The transfer of land, if lawfully done under State law, will not create State and/or County liability associated with the activities of the National Park Service. The State and/or County would not be a proper party to any subsequent lawsuit once title has passed from the County to the State and from the State to the United States of America.

We also believe that the proviso clause is duplicative and redundant of the limitations on the regulatory powers of the National Park Service already set forth in the opening provisions of section 4. The National Park Service should be allowed the discretion to make these future determinations based on its expertise in managing and administering units of the National Park System and based on public involvement during the regulatory process.

Finally, any limited regulation of the Road could not by any stretch of the imagination result in liability to the State and/or County. Liability will not result from the land transfer; and any limited regulatory action, as limited by this section, would be exclusively a Federal act.

There is another provision that we recommend be amended, Mr. Chairman. Section 5 should be amended to delete "such sums as may be necessary and available" and insert "such sums as have been appropriated to the National Park Service under Public Law 99-190, as amended by Public Law 99-177." This amendment would specifically limit the funds to be provided by the Federal Government for this project to that sum which has already been appropriated.

There is one other provision, Mr. Chairman, that we would recommend be deleted; that is, the proviso at the end of the authorization for appropriations. This proviso precludes the expenditure of funds for land acquisition. While it is our intent not to spend any funds for land acquisition, we nonetheless believe that this type of restriction is unnecessary.

Mr. Chairman and Members of the Committee, we have been working with the members of the Congressional delegation from Utah and representatives from the State and County on a draft contract and draft deed, which are the two key documents necessary to implement S. 2265 when enacted. Though they are only in a draft form, we would be pleased to make them available to the Committee for your information.

We believe that the progress that we have made to date on addressing the need to provide an adequate road so that visitors can leisurely enjoy the scenery of the famous Grand Circle tour, a route encompassing most of the frequently visited park and recreation areas in southern Utah, is a tribute to the delegation and the State and County representatives. We believe that the visitor experience will be no less than spectacular when the project is completed.

This concludes my prepared testimony, Mr. Chairman. I would be pleased to respond to any questions you or other members of the Subcommittee may have.

DRAFT - 3/21/86

GRANT AND CONTRACT

Between
National Park Service
and
State of Utah

RELATING TO THE ESTABLISHMENT, OPERATION, AND ADMINISTRATION OF THE BURR TRAIL NATIONAL RURAL SCENIC ROAD

This Grant Agreement and Contract (hereinafter "Contract") is made and entered into this ________ day of ____________________, 1986, by and between the National Park Service ("Service") and the State of Utah ("State").

WHEREAS, the Act ("Act") of __________________, 1986, (Public Law 99-______; ___ Stat. _____) authorized the establishment of the Burr Trail National Rural Scenic Road ("Road") as a unit of the National Park System; and

WHEREAS, the Act authorizes the Secretary of the Interior ("Secretary") and the State to enter into a Contract, and requires the Secretary and the State to certify that adequate lands and funds are available to fulfill the purposes of the Act before the Road becomes part of the National Park System or before construction may proceed; and

WHEREAS, the Secretary is authorized to accept from the State a donation of a right-of-way for the Road and its appurtenances, not to exceed an average of 100 acres per mile, subject to such reverters and conditions as the Secretary determines may be consistent with the administration and management of the Road; and

WHEREAS, the necessary lands have been conveyed by deed from the State to the Secretary and title to the lands accepted by the Secretary; and

WHEREAS, both parties to this Contract desire to cooperate to fulfill the purposes of the Act in a timely manner; and

WHEREAS, the State has entered into an appropriate counterpart contract and/or agreement with the County, which documents are necessary for the State to meet its obligations and duties under this Contract; and

WHEREAS, the State has identified a minimum of $3.1 million to fund its portion of the project; and

WHEREAS, the Service has $7.705 million available to fund its portion of the Road within Capitol Reef National Park and Glen Canyon National Recreation Area and to fund the planning, design, and construction of an intepretive facility in Boulder, Utah; and

WHEREAS, both parties have concluded and certified to each other that adequate lands and funds are available for the design and construction of the Road;

NOW, THEREFORE, it is agreed as follows:

I. DEFINITIONS:

The following words when used in this Contract shall have the following meanings:

A. "Road" means the Burr Trail National Rural Scenic Road, extending sixty-six (66) miles, more or less from the junction of State Highway 12 in the town of Boulder, Utah, on the west, to the junction of State Highway 276, near the town of Bullfrog, Utah, on the east, as identified on the map referred to in section 1(a) of the Act of ______________________.

B. "Scenic Foreground" means those lands transferred to the Secretary from the State by Deed pursuant to section 3(b) of the Act of ___________________.

C. "Construction and Maintenance to the Road" means the following:

1. Final Surface Requirements.

) Mile 0.0 to Mile Post 2.4 - Existing paved surface will be maintained.

b) Mile Post 2.4 to Mile Post 8.8 - Gravel surface (end of existing paving to top of Gulch).

c) Mile Post 8.8 to Mile Post 17.1 - Paved surface (top of Gulch to bottom of "Blues" Section).

d) Mile Post 17.1 to Mile Post 34.0 - Gravel Surface (bottom of "Blues" Section to Muley Twist Wash).

e) Mile Post 34.0 to Mile Post 35.2 - Concrete paved section (Muley Twist Wash and switchbacks).

f) Mile Post 35.2 to Mile Post 65.9 - Gravel surface (from Halls Creek to Highway 276).

2. Grade, Alignment, and Road Section.

The grade, alignment, and road section shall follow the existing as closely as possible subject to the standards outlined in the "Park Service Road Standards" in existence or as may be amended.

3. Hydraulic Structures.

Bridges shall be constructed at Bullfrog Creek and Horse Canyon. Concrete dips shall be installed at Deer Creek, the Gulch, Muley Twist, and Halls Creek.

4. Modifications.

Modifications shall be allowed to surface requirements, grade, alignment, road section, and hydraulic structures as may be necessary.

II. THE SERVICE AGREES THAT:

A. Final authority is retained by the Service for review and approval of all architectural and engineering proposals, preliminary plans, and construction and contract documents before award of design and construction can begin. The Service further agrees that it shall:

B. Retain the final authority to review and approve any and all change orders submitted by the State prior to negotiation and execution.

C. Perform timely review and approval of all proposals, plans, construction and contract documents, and change orders. It shall complete the review and approval of said documents within a period of 60 calendar days from receipt of the documents.

D. Perform the review and approval of all proposals and plans based on "Park Road Standards" which are in existence or as may be amended and which are made a part of this contract as Appendix "A".

E. Cause to be transferred necessary funds to the State, in the form of a grant, to be used for the design, contract administration, and construction of those Road segments within Capitol Reef National Park and Glen Canyon National Recreation Area.

F. Review and approve in a timely fashion any comprehensive liability insurance obtained by contractors on behalf of the State that names as the insured party the United States of America. It shall complete the review and approval of said documents within a period of 30 calendar days from the date of receipt of the documents.

G. Provide interim and final inspection and approval on all construction phases for the Road and appurtenances.

H. Maintenance standards - to be discussed in terms of "reverter provision" and road standard. State to draft.

I. Promulgate regulations for traffic and public use. In consideration of the promises made by the State in the Contract and the transfer of State-owned land, the Service agrees to allow for road use by stock trucks, State/County/BLM/Service maintenance vehicles and equipment, and busses that do not exceed 96 inches in width. Nothing in this contract shall be construed to limit the use of and enjoyment by livestock owners, licensees, permittees, lessees or others who have existing proprietary rights of use, ingress and egress to the Road.

J. Build, operate, and maintain an interpretive facility in Boulder, Utah, subject to the availability of staffing and funds.

K. Pursue the development of support facilities of Capitol Reef National Park and Glen Canyon National Recreation Area as indicated in the approved General Management Plans, as amended, which are needed for visitor use and maintenance of the Road subject to the availability of staffing and funds.

L. Mitigate activities which would impair the scenic and natural values of the Road.

M. Seek additional funds, as necessary, for the completion of those portions of the Road within the boundaries of Capitol Reef National Park and Glen Canyon National Recreation Area and for the completion of an interpretive facility in Boulder, Utah.

III. THE STATE AGREES THAT IT SHALL:

A. Procure and issue engineering services and construction contracts through full and open competitive procurement practices for any portion of the Road under the terms of this Grant and Contract.

B. Provide written notice of actual commencement of construction work on the Road to the Service at least twenty (20) working days before work begins.

C. Ensure that all work will be done in accordance with the plans and specifications submitted to and approved by the Service.

D. Provide to the Service monthly construction progress reports.

E. Submit change orders to the Service for review and approval prior to negotiation and execution.

F. Mitigate activities during construction which would impair the scenic and natural values of the Scenic Foreground.

G. Construct integral with the Road design, those special structures and features agreed to by the Service and the State as being required to minimize environmental and visual impacts.

H. Complete those activities necessary to provide rehabilitation of impacted areas resulting from construction of the Road.

I. Control public access to the Road during construction.

J. Require contractors to save, hold harmless, and indemnify the United States of America, its agents and employees for losses, damages, judgments, expenses, claims, disputes and liens on account of or by project contractors, or their workmen, materialmen, suppliers, or any of their employees, or agents, or on account of personal injury, death, or property damage, or claims for personal injury, death, or property damage of any nature whatsoever and by whomsoever made, arising out of or in connection with any aspect of the design or construction of the Road and its appurtenances for which they provide services.

K. Require its project contractors to obtain and maintain comprehensive general liability insurance, which shall be submitted for review and approval by the Service, for personal injury, death, and property damage and shall name the United States as the insured party.

L. Ensure compliance with all applicable Federal, State, and local laws, regulations, codes, and permitting requirements.

M. Seek additional funds, as necessary, for the completion of those portions of the Road outside of the boundaries of Capitol Reef National Park and Glen Canyon National Recreation Area.

IV. FUNDING AND GRANT OBLIGATIONS AND ADMINISTRATIVE PROVISIONS:

A. The Service shall process payments, in the form of a grant, to the State to carry out its responsibilities of the Act of ________ on a reimbursable basis through a Letter of Credit for work accomplished or obligated under this Contract. This grant will constitute the payment to the State to complete the described work on the Road. The Service shall reserve to itself necessary funds to carry out its responsibilities, including but not limited to the planning, design, and construction of an interpretive facility in Boulder, Utah, under this Contract. The Service shall provide interim and final fiscal review of funds granted to the State, as required in the Administrative and General Provisions of this Contract.

B. The Office of Management and Budget (OMB) has established uniform procedures for financial and technical reporting as outlined in the General Provisions section, which is appended in Appendix ____. Further, OMB Circular A-110, 41 F.R. 32016 (July 30, 1976) requires the following paragraphs, which are appended in Appendix __________, and which control the administration and reimbursable costs under the grant.

1. Retention and Custodial Requirements for Records
2. Monitoring and Reporting Program Performed
3. Closeout Procedures
4. Suspension and Termination Procedures
5. Standards for Financial Management Systems
6. Financial Reporting Requirements
7. Bonding and Insurance
8. Procurement Standards

Reports shall be sent to:

Regional Director
Rocky Mountain Regional Office
National Park Service
655 Parfet Street
P.O. Box 25287
Denver, Colorado 80225

V. GENERAL PROVISIONS:

1. No Member of or Delegate to Congress, Federal employee, State employee, or employees of any politicial subdivision thereof shall be admitted to any share or part of this Contract or to any benefit that may arise therefrom.

2. This Contract is subject, in whole or in part, to all applicable Federal, State, and local laws, regulations and codes and shall be interpreted in accordance therewith. In the event of any conflict between the terms of this Contract and any such law, regulation, or code, the terms of the law, regulation, or code shall supercede the terms of this Contract.

3. Invalidation of any one term or provision of this Contract by judgment or court order shall not affect any other provision, and the remaining provisions shall remain in full force and effect.

4. No part of this Contract, which has been entered into pursuant to section 1(b) of the Act of ____________, shall be assigned.

5. The parties will abide by the provisions of Executive Orders 11246 and 11375, which are attached as Appendix ___ and made a part of this Contract. The parties will not discriminate in the selection of contractors or employees for any service required to accomplish the purposes of the Act of ____________ on the grounds of race, age, creed, color, sex, or national origin, and will observe all the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. 2000(d)).

6. No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal

service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation; but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to Members of Congress on the request of any Member of Congress, through proper channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business. Whoever, being an officer or employee of the United States or of any department or agency thereof, violates or attempts to violate this section, shall be fined not more than $500 or imprisoned not more than one year, or both; and after notice and hearing by the superior officer vested with the power of removing him, shall be removed from office or employment. (June 25, 1948, Ch. 645; 62 Stat. 792)

IN WITNESS WHEREOF, the undersigned have executed this Contract on the date and year first above written.

NATIONAL PARK SERVICE	STATE OF UTAH
By____________________	By____________________
Regional Director	Governor

DRAFT - 3/21/86

DEED

The State of Utah, Grantor, hereby conveys and warrants to the United States of America, Grantee, as a donation, subject to existing easements of record for public roads and highways, utilities, railroads, and pipelines and subject to the conditions of this Deed the following described tracts of land located in Garfield County, Utah:

LEGAL DESCRIPTION

Said tracts of land are also depicted on the attached map numbered __________, which is incorporated and made part of this Deed. In case of a conflict between the map and the description, the description shall be controlling.

REVERTER PROVISION TO BE DRAFTED BY THE STATE.

Witness the hand of said Grantor, this _______________ day of _______________, 1986 A.D. In the presence of _______________.

____

GOVERNOR
STATE OF UTAH

State of Utah)
County of ________)

On the _______________ day of ____________, 19__, personally appeared before me ____________________, the signer of the above instrument, who duly acknowledged to me that he executed the same.

____

SIGNATURE/TITLE OF OFFICER

[SEAL]

My commission expires the _________ day of _________, 19__.

Senator WALLOP. I would like to recognize now Senator Hatch on behalf of the same piece of legislation.

STATEMENT OF HON. ORRIN G. HATCH, A U.S. SENATOR FROM THE STATE OF UTAH

Senator HATCH. Thank you, Mr. Chairman. I appreciate you allowing me to interrupt, and I appreciate you gentlemen allowing me to interrupt here this morning. This is very important to us.

I appreciate the opportunity to testify today on S. 2265, the Burr Trail National Rural Scenic Road. And of course, for your efforts in active consideration given to this measure we are very appreciative.

Although the Burr Trail is a relatively new issue to the Members of Congress, the promise of road development in national park areas in southern Utah is not. As Senator Garn has indicated, with the creation of Glen Canyon National Recreation Area came the promise of adequate maintenance and road development to ensure that local communities would derive economic benefit.

You and I know, Mr. Chairman, that Utah is owned about 70 percent by the Federal Government, and that land is controlled and administered by the Federal Government. And while the impact of Federal ownership affects the entire State, it can I think be accurately said that this has caused no greater impact than in our area of southern Utah.

This area of the State contains five national parks, one national recreation area, and six national monuments. And of course, you could go on and on, but these southern Utah areas will benefit greatly from this road, and I think we have struck a happy medium here between environmental groups and of course the environmental concerns and the beauty of the area concerns, and yet having communities such as Bechnel, Escalante, Blanding, and others really benefit from having this road.

I have many things I would like to say, Mr. Chairman, but I think what I would like to do is just place the statement in the record. I think you know how important this is to those of us in the Utah delegation. I think you will hear testimony from various Utahns here today.

We believe this is a very, very important piece of legislation and will help us a great deal in southern Utah, but really, in the grand circle tour and throughout our efforts in tourism throughout Utah. So we are very grateful for you holding these hearings, and I am just happy to be able to participate in them.

[The prepared statement of Senator Hatch follows:]

STATEMENT BY
SENATOR ORRIN HATCH
BURR TRAIL NATIONAL RURAL SCENIC ROAD
APRIL 11, 1986

MR. CHAIRMAN:

I APPRECIATE THE OPPORTUNITY TO TESTIFY TODAY ON S. 2265, THE BURR TRAIL NATIONAL RURAL SCENIC ROAD AND YOUR EFFORTS TO GIVE CONSIDERATION TO THIS MEASURE.

THOUGH THE BURR TRAIL IS A RELATIVELY NEW ISSUE TO MEMBERS OF CONGRESS, THE PROMISE OF ROAD DEVELOPMENT IN NATIONAL PARK AREAS IN SOUTHERN UTAH IS NOT. AS SENATOR GARN HAS INDICATED, WITH THE CREATION OF GLEN CANYON NATIONAL RECREATION AREA CAME THE PROMISE OF ADEQUATE MAINTENANCE AND ROAD DEVELOPMENT TO ENSURE THAT LOCAL COMMUNITIES WOULD DERIVE ECONOMIC BENEFIT.

AS YOU AND I KNOW MR. CHAIRMAN, UTAH IS A STATE IN WHICH NEARLY 70 PERCENT OF THE LAND IS CONTROLLED AND ADMINISTERED BY THE FEDERAL GOVERNMENT. WHILE THE IMPACT OF FEDERAL OWNERSHIP AFFECTS THE ENTIRE STATE, IT CAN, I THINK, ACCURATELY BE SAID THAT THIS HAS CAUSED NO GREATER IMPACT THAN IN SOUTHERN UTAH. THIS AREA OF THE STATE CONTAINS FIVE NATIONAL PARKS, ONE NATIONAL RECREATION AREA AND SIX NATIONAL MONUMENTS.

HOWEVER, THE FEDERAL CONTROL OF THIS LAND, ALTHOUGH A TRIBUTE TO THE AREA'S NATURAL BEAUTY, HAS NOT BEEN WITHOUT COST TO LOCAL COMMUNITIES. IN GARFIELD COUNTY, FOR EXAMPLE, ONLY 1.8 PERCENT OF THE LAND IS PRIVATELY OWNED. THE REST

OF THE LAND IS EITHER MANAGED BY THE STATE OR FEDERAL GOVERNMENT. OBVIOUSLY THE AMOUNT AND TYPES OF DEVELOPMENT WHICH CAN OCCUR IN THESE AREAS IS LIMITED BY LAND OWNERSHIP RATIOS. CONSEQUENTLY, THE PARKS THEMSELVES HAVE COME TO BE VALUED AS AN ECONOMIC RESOURCE FOR COMMUNITIES SUCH AS BICKNELL, ESCALANTE, BLANDING AND OTHERS.

IN RECOGNITION OF THIS FACT, EFFORTS TO BETTER MANAGE AND PROVIDE ACCESS TO THE PARKS HAVE RESULTED IN A PROPOSAL TO PARTIALLY PAVE THE BURR TRAIL AND IDENTIFY IT AS A NATIONAL RURAL SCENIC ROAD. SINCE THE EARLY 1970'S SEVERAL PROPOSALS HAVE BEEN MADE TO UPGRADE THIS ROAD IN AN EFFORT TO COMPLETE THE "GRAND CIRCLE ADVENTURE" WHICH WOULD LINK THE MAJORITY OF THE PARKS IN SOUTHERN UTAH AND PROVIDE BETTER ACCESS TO CANYON COUNTRY FOR BOTH RESIDENTS AND TOURISTS.

IT IS IMPORTANT TO REALIZE THAT VISITORS AND TRAVELERS FROM CALIFORNIA OFTEN FIND A MORE DIRECT ROUTE EAST BY AVOIDING UTAH AND GOING THROUGH ARIZONA. PAVING THE BURR TRAIL WILL MAKE IT MUCH MORE INVITING TO DRIVE TO CEDAR CITY, TO CEDAR BREAKS, TO BRYCE CANYON, AND WILL MAKE ACCESS TO LAKE POWELL MUCH MORE INVITING TO THOSE 25 MILLION CALIFORNIANS WE INVITE INTO OUR STATE EACH YEAR.

WHILE I KNOW THAT THIS PROPOSAL HAS CAUSED CONCERN AMONG ENVIRONMENTAL GROUPS, WHO FEAR THAT TOTAL PAVEMENT OF THIS ROAD WOULD ADVERSELY EFFECT THE ENVIRONMENT, I WOULD HOPE THAT DIRECTOR MOTT'S ATTEMPTS TO FIND A BALANCE BETWEEN PROVIDING ADEQUATE ACCESS TO THIS AREA, AND PRESERVING ITS

UNIQUE SCENIC QUALITIES, THROUGH PARTIAL PAVEMENT, AND THROUGH THE ESTABLISHMENT OF THE ROAD AS A NATIONAL RURAL SCENIC ROUTE WILL ALLEVIATE THE MAJORITY, IF NOT ALL, OF THEIR CONCERNS.

AS YOU KNOW, MR. CHAIRMAN, THERE IS A NEED FOR BALANCE IN ALL OF OUR LAND MANAGEMENT DECISIONS. THE BURR TRAIL TODAY IS NOT A TRAIL; IT IS A GRAVEL ROAD. WE ARE NOT BREAKING NEW GROUND WITH THIS PROPOSAL; WE ARE IMPROVING WHAT IS ALREADY THERE.

THE ADVANTAGE TO DOING THIS IS TO PROVIDE A TRANSPORTATION CORRIDOR BETWEEN THE SOUTHERN UTAH NATIONAL PARK SYSTEM WHICH CAN BE SAFELY TRAVELED YEAR ROUND. IT WILL INCREASE THE SAFETY AND ACCESSIBILITY TO SOUTHERN UTAH'S SCENIC WONDERS, AND PROVIDE AN IMPORTANT CONTRIBUTION TO THE CITIZENS OF SOUTHERN UTAH, WHO HAVE LONG AWAITED THE FULFILLMENT OF GOVERNMENT PROMISES.

THE STATE OF UTAH HAS SOME OF THE MOST BEAUTIFUL AREAS IMAGINABLE. IN MY MIND, IT DOES NOT MAKE SENSE TO SET ASIDE AREAS BECAUSE OF THEIR BEAUTY WITHOUT ALSO PROVIDING A MEANS FOR PEOPLE TO SEE AND ENJOY THAT BEAUTY.

Senator **Wallop**. Orrin, thank you very much. We appreciate your cooperation with us this morning.

Senator **Hatch**. Thank you.

Senator **Wallop**. Now, Mr. Tidwell.

Mr. Galvin, you were finished, were you not?

Mr. **Galvin**. Yes; I was.

STATEMENT OF DAVID P. TIDWELL, SPECIAL ASSISTANT TO THE DIRECTOR, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

Mr. **Tidwell**. Thank you, Mr. Chairman. I appreciate the opportunity to appear before the subcommittee today to discuss the Department of the Interior's position on S. 1413 and H.R. 2067.

These bills are similar in that they would legalize, validate, and confirm certain Central Pacific Railroad conveyances of right-of-way lands as far as any interest of the United States is concerned. The parcels of land involved are portions of 400 foot wide rights-of-way that were granted by the United States to the Central Pacific Railway Co., now operating as the Southern Pacific Railway Transportation Co. under the provisions of the act of July 1, 1982.

Both bills deal with the same 41 parcels: 37 are in San Joaquin County, 2 are in Sacramento County, 1 is in Kings County, and 1 is in Nevada County, CA. H.R. 2067 as passed by the House of Representatives adds a third parcel in Sacramento County not included in S. 1413.

There is no general authority for the railroad companies to make conveyances of any or all of the lands or interests in lands within the rights-of-way. The act of May 25, 1920, authorized railroad companies that had been granted rights-of-way through public lands to convey such rights-of-way to States, counties, and/or municipalities for use as public highways or streets, but prohibits diminishing the rights-of-way to less than 50 feet on each side of the center of the main track.

A law similar to the 1920 act is also found in section 316 of title 23 of the United States Code. These statutes do not appear to be applicable to the present situation because it appears that the rights-of-way were not conveyed for use as roads and streets.

The act of March 8, 1922, provides that upon declaration by an act of Congress or a court that a railroad has forfeited or abandoned a right-of-way, all right, title, and interest of the United States in the lands within the right-of-way pass to those parties who have acquired title of the United States in the lands adjoining the right-of-way, except that those forfeited rights-of-way located in a municipality pass to the municipality itself.

The 1922 act likewise is not applicable to the present situation because there has been no legislative or judicial declaration of abandonment of the right-of-way. In the past several years, Congress has considered a number of bills similar to S. 1413 and H.R. 2067 to validate prior conveyances of railroad rights-of-way.

The Department of the Interior has not objected to the enactment of such bills, provided that three criteria were met: First, that the lands adjacent to the portions of right-of-way under consideration are non-Federal lands; second, that the width of the remaining right-of-way be 50 feet or more on each side of the centerline of the main railroad track or tracks; and third, that all oil or coal or minerals be reserved to the United States.

In this case, the rights-of-way involved in S. 1413 and S. 2067 do traverse non-Federal lands, so the first criterion is met. Section 7(a)(1) and (b) of S. 1413 and H.R. 2067 contain the appropriate reservations, thereby making the legislation conform to the Department's criteria.

We note there is no provision for compensation to the United States for any Federal interest that is being released. We have no objection to enactment of S. 1413 or H.R. 2067.

We note one technical problem with S. 1413. Section 7(a)(2), which states that the legislation is not intended to legalize any right to the lands arising out of adverse possession, refers to lands covered by sections 3, 4, and 5, but does not include section 6, which confirms the conveyance of land in Nevada County, CA. We know of no reason for this omission.

We also note that H.R. 2067 as passed by the House of Representatives added a parcel of land not included in the bill as introduced. That parcel is described in section 4(3). We have no objection to the addition of the parcel.

While S. 1413 and H.R. 2067 will contribute to clarifying the title situation of the adjacent landowners, it will not necessarily remove all clouds from their titles. There may be third parties who claim interest in the lands adverse to the adjacent landowners as grantees of the railroad.

This legislation will not eliminate such claims, and if any exist it may be necessary for the beneficiaries of S. 1413 and H.R. 2067 to initiate quiet-title proceedings in the appropriate courts.

That concludes my statement. I will be pleased to answer any questions on this legislation.

[The prepared statement of Mr. Tidwell follows:]

APR 11 1986

STATEMENT OF DAVID P. TIDWELL, SPECIAL ASSISTANT TO THE DIRECTOR, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION, COMMITTEE ON ENERGY AND NATURAL RESOURCES, UNITED STATES SENATE, ON S. 1413, A BILL AND H.R. 2067, AN ACT "TO VALIDATE CONVEYANCES OF CERTAIN LANDS IN THE STATE OF CALIFORNIA THAT FORM PART OF THE RIGHT-OF-WAY GRANTED BY THE UNITED STATES TO THE CENTRAL PACIFIC RAILWAY COMPANY."

I appreciate the opportunity to appear before the Subcommittee today to discuss the Department of the Interior's position on S. 1413 and H.R. 2067. These bills are similar in that they would legalize, validate and confirm certain Central Pacific Railroad Company conveyances of right-of-way lands as far as any interest of the United States is concerned. The parcels of land involved are portions of 400-foot wide rights-of-way that were granted by the United States to the Central Pacific Railway Company, now operating as the Southern Pacific Transportation Company, under the provisions of the Act of July 1, 1862. Both bills deal with the same 41 parcels: 37 are in San Joaquin County, two are in Sacramento County, one is in Kings County, and one is in Nevada County, California. H.R. 2067, as passed by the House of Representatives, adds a third parcel in Sacramento County, not included in S. 1413.

There is no general authority for the railroad companies to make conveyances of any or all of the lands or interests in lands within their rights-of-way. The Act of May 25, 1920 (43 U.S.C. 913), authorized railroad companies that had been granted rights-of-way through public lands, to convey such rights-of-way to States, counties, or municipalities for use as public highways or streets, but prohibits diminishing the rights-of-way to less than 50 feet on each side of the center of the main track. A law similar to the 1920 Act is also found in section 316 of Title 23 of the United States Code. These statutes do not appear to be applicable to the present situation because it appears that the rights-of-way were not conveyed for use as roads and streets.

The Act of March 8, 1922 (43 U.S.C. 912), provides that upon a declaration by an Act of Congress, or a court, that a railroad has forfeited or abandoned a right-of-way, all right, title and interest of the United States in the lands within the right-of-way pass to those parties who have acquired title of the United States in the lands adjoining the right-of-way, except that those forfeited rights-of-way located in a municipality pass to the municipality. The 1922 Act likewise is not applicable to the present situation because there has been no legislative or judicial declaration of abandonment of the right-of-way.

In the past several years, the Congress has considered a number of bills similar to S. 1413 and H.R. 2067 to validate prior conveyances of railroad rights-of-way. The Department of the Interior has not objected to the enactment of such bills, provided that three criteria were met: (1) that the lands adjacent to the portions of the right-of-way under consideration are non-Federal lands; (2) that the width of the remaining right-of-way be 50 feet or more on each side of the center line of the main railroad track or tracks; and (3) that all oil, coal or other minerals be reserved to the United States. In this case the rights-of-way involved in S. 1413 and H.R. 2067 do traverse non-Federal lands, so the first criterion is met. Sections 7(a)(1) and (b) of S. 1413 and H.R. 2067 contain the appropriate reservations, thereby making the legislation conform to the Department's criteria.

We note there is no provision for compensation to the United States for any Federal interest that is being released.

We have no objection to enactment of S. 1413 or H.R. 2067.

We note one technical problem with S. 1413. Section 7(a)(2), which states that the legislation is not intended to legalize any right to the lands arising out of adverse possession, refers to lands covered by sections 3, 4, and 5 but does not include section 6, which confirms the conveyance of lands in Nevada County, California. We know of no reason for this omission.

We also note that H.R. 2067 as passed by the House of Representatives added a parcel of land not included in the bill as introduced. That parcel is described in section 4(3). We have no objection to the addition of the parcel.

While S. 1413 and H.R. 2067 will contribute to clarifying the title situation of the adjacent landowners, it will not necessarily remove all clouds from their titles. There may be third parties who claim interest in the lands adverse to the adjacent landowners as grantees of the railroad. This legislation will not eliminate such claims and if any exist it may be necessary for the beneficiaries of S. 1413 and H.R. 2067 to initiate quiet title proceedings in the appropriate courts.

That concludes my statement. I will be pleased to answer any questions on this legislation.

Senator WALLOP. Thank you, Mr. Tidwell.
Lamar.

STATEMENT OF J. LAMAR BEASLEY, DEPUTY CHIEF, NATIONAL FOREST SYSTEM, FOREST SERVICE, DEPARTMENT OF AGRICULTURE

Mr. BEASLEY. This is a bill to amend the National Trail System Act by designating the Nez Perce Trail as a component of the National Trail System. We support enactment of this bill as presented.

A study of this trail was conducted pursuant to the National Trail System Act by the Forest Service, Park Service, and other Federal agencies, and was transmitted to Congress in July 1985 with our recommendations. We recommend that the entire 1,170-mile route tracing the 1877 flight of the nontreaty Nez Perce Indians be designated as a historical trail.

We have a map here which depicts the location or the route of the trail, beginning in northeastern Oregon, proceeding into Idaho, crosses into Montana at Lolo Pass. It then follows the Bitterroot Valley south and crosses back into Idaho at Bannack Pass.

The route then traverses eastward through eastern Idaho and reenters the southern extreme tip of Montana, into Yellowstone National Park. It bisects the park, into Wyoming, then proceeds northward into Montana, ending about 40 miles from the Canadian border in the Bear Paw Mountains.

The trail would be marked and interpreted along highways and other connecting roads. Approximately 319 miles of high potential route segments on Federal or State-owned lands may eventually be developed. The preponderance of high potential segments are located on National Forest System lands.

No land acquisition is proposed as part of the designation. We estimate that initial development costs would be about $550,000 over the next 5 years for the annual operating and maintenance costs, estimated to be around $65,000.

This concludes my statement, Mr. Chairman. I would be pleased to respond to any questions.

[The prepared statement of Mr. Beasley follows:]

Statement of
J. LAMAR BEASLEY
DEPUTY CHIEF
FOR NATIONAL FOREST SYSTEM
FOREST SERVICE
UNITED STATES DEPARTMENT OF AGRICULTURE

Before the
Committee on Energy and Natural Resources
Subcommittee on Public Lands, Reserved Water and Resource Conservation
United States Senate

On S. 1542, Concerning the designation of the Nez Perce Trail (Nee-Me-Poo) Trail as a component of the National Trails System.

April 11, 1986

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

We appreciate the opportunity to present our views on S. 1542, a bill "To amend the National Trails System Act by designating the Nez Perce (Nee-Me-Poo) Trail as a component of the National Trails System." We support enactment of this bill as presented.

A study of this trail was conducted pursuant to the National Trails System Act by the Forest Service and other Federal agencies and transmitted to Congress in July 1985 with our recommendation. We recommend that the entire 1,170-mile route tracing the 1877 flight of the nontreaty Nez Perce Indians be designated as a historic trail. (See display map) The trail begins in northeastern Oregon, proceeds into Idaho, and crosses into Montana at Lolo Pass. It follows the Bitterroot Valley south and crosses back into Idaho at Bannack Pass. The route traverses eastward through eastern Idaho and reenters the southern extreme tip of Montana into Yellowstone National Park. It bisects Yellowstone Park into Wyoming, then proceeds northward into Montana, ending approximately 40 miles from the Canadian border.

The trail would be marked and interpreted along highways and other connecting roads. Approximately 319 miles of high potential route segments on Federal or State-owned lands may eventually be developed. The preponderance of the high potential segments are located on National Forest System lands. Some portions of the trail are already in existence.

No land acquisition is proposed as part of the designation. We estimate initial development costs would be approximately $550,000 over the next 5 years. Annual operations and maintenance costs are estimated to be $65,000.

I would be pleased to answer any questions the Committee may have on our current program or how we would expect to proceed under the proposed legislation.

Senator **Wallop**. Thank you, Lamar.

Senator Bumpers, do you have an opening statement or comments on any of these?

Senator **Bumpers**. No, I do not, Mr. Chairman.

Mr. Chairman, since I just got here and I hate to take your time, but if I may ask you this one question. Did the Park Service testify on S. 2265?

Senator **Wallop**. They did.

Senator **Bumpers**. Thank you.

Senator **Wallop**. Did you want to know the gist of it?

Senator **Bumpers**. I would like to, because I was on the conference committee last year when that turned into a real brouhaha in appropriations. You recall we appropriated the money for that contingent on the outcome of an authorization. I was just curious as to what the Park Service's attitude was about it.

Mr. **Galvin**. We are supporting enactment of S. 2265 with some modifications and reserving the right to comment somewhat further. We are in the process of negotiating a contract and deed with the State and county. That is not complete.

There are some features of the draft legislation that we would either like deleted or amended, but we are supporting the designation of the Burr Trail.

Senator **Wallop**. You mean the draft contracts, not draft legislation?

Mr. **Galvin**. That is correct.

Senator **Wallop**. The draft contracts.

Mr. **Galvin**. We are working on the contract and deed.

Senator **Bumpers**. How much did we appropriate last year for that?

Mr. **Galvin**. $8.1 million, which, subject to Gramm-Rudman, is now $7.7 million.

Senator **Bumpers**. Can it be done for $7.7 million?

Mr. **Galvin**. I believe the Federal portion can; yes. I might say that the State is also providing funds for those portions of the road that are outside the boundaries of the National Park System.

Senator **Bumpers**. OK.

[Pause.]

Senator **Bumpers**. Staff tells me the total cost is projected to be about $16 million.

Mr. **Galvin**. That is correct.

Senator **Bumpers**. And our share will be what?

Mr. **Galvin**. $7.7 million.

Senator **Bumpers**. Where is the balance proposed to come from?

Mr. **Galvin**. From the State.

Senator **Bumpers**. The State will come up with all of it?

Mr. **Galvin**. The county is also involved, but all the work will be done under the auspices of the State of Utah.

Senator **Bumpers**. Is that satisfactory with Senator Garn?

Senator **Wallop**. Yes; I think it is, as I understand the testimony of the Utah congressional delegation.

Senator **Bumpers**. Thank you, Mr. Chairman.

Senator **Wallop**. They have been working very closely with the Park Service. We probably will have one or two questions, but mostly they will be fleshed out by testimony of witnesses preceding us. So the administration witnesses are free to leave if they wish, and I will go directly now to the witnesses, the first panel on S. 1374. I will remind people again that because of the morning in which we find ourselves, we are going to limit testimony to 3 minutes.

I would ask State Representative Richard Moore from Uxbridge, MA, Deputy Commissioner Robert Kumor of the department of environmental management of the State of Massachusetts, Director Robert Bendick, department of environmental management of the State of Rhode Island, Dr. Pat Malone, executive director of the Slater Mill Association, to approach the table.

I have statements for the record by Senator Wilson on S. 1314; Senator Baucus, S. 1542; Senator Kerry on S. 1374; and Governor Bangerter of Utah on S. 2265.

[The statements follow:]

Pete Wilson

STATEMENT OF
THE HONORABLE PETE WILSON
SENATOR FROM CALIFORNIA
BEFORE THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. Chairman, I am pleased to have the opportunity to appear before this distinguished Subcommittee to discuss S. 1413, the Railroad Right-of-Way Conveyance Act of 1985. This bill would validate conveyances of certain lands in the state of California that form part of the right-of-way granted by the United States to the Central Pacific Railway Company through the Act of July 1, 1862. Covered under this bill are 41 parcels of land which are portions of 400-foot wide rights-of-way granted to Central Pacific, now operating as the Southern Pacific Transportation Company. Lands in San Joaquin, Sacramento, Kings and Nevada Counties would be affected by this legislation.

As this Subcommittee is well aware, the 1862 Act was intended to encourage the construction of a coast-to-coast railroad system. The land grants authorized by this Act were intended to be used for railroad purposes. It is my understanding that in those instances where these lands were not used for railroad purposes, the 1862 Act was vague on the question of how these lands should be disposed. Apparently, however, subsequent court findings and acts of Congress have found that title to these lands in question should revert to the United States. Thus, in order to clear title to these conveyances, it is necessary to enact legislation which thereby eliminates the interest of the United States government.

In the situation that we are now facing, approximately 52 properties located within the old railway right-of-way alignment were sold between 1880-1917 by the railroad to private individuals without the benefit of federal consent. This has resulted in the present property title holders being restricted from obtaining clear title to the land they have held and paid taxes on for the past hundred years.

The bill is necessary in order to complete an effort begun in 1979 to revitalize a depressed, lower-income, minority neighborhood in the city of Tracy. Seven years ago, the city obtained funding and approval from the Department of Housing and Urban Development under the Housing and Community Development Block Grant Program. This funding was intended to assist the community in such activities as street improvements, housing rehabilitation, and park improvements.

In order for this development plan to work, title grant clouds on these properties in question need to be cleared. Local landowners cannot invest in developing and improving their property until clear titles are obtained. Failure to clarify the existing uncertainties will only serve to perpetuate the 50% vacancy rate that currently exists in the area.

To clarify a point of confusion, it has been suggested by some that certain of these conveyances from Southern Pacific occurred in 1981. Such is not the case. All conveyances occurred in the late 1800s and early 1900s. This 1981 reference in the bill is the date upon which quit-claim deeds were prepared by Southern Pacific. Before this, the title reports on these properties showed the private individuals as being the legal owner, but none of the transactions which occurred in the late 1800s and early 1900s had been accompanied by the necessary legal documents. In order to rectify the situation, it was necessary for the private landowners to pay Southern Pacific approximately $350 per property to cover administrative costs in checking records and preparing the deeds. These 1981 quit-claim deeds served to relinquish Southern Pacific's right to the land. Legislation is necessary to make the transfers of title to the third party legal.

The matter of compensation as a precondition to the conveyance of these titles has been raised. While I agree that fair market value should be sought for transfer of government property whenever possible, I believe Mr. Mullen will discuss why the City of Tracy may be an exception to this general principle.

Mr. Chairman, only Congressional action on this legislation can solve these century old land title uncertainties. On behalf of the individual landowners in the city of Tracy, and because of the long delay which they have endured in obtaining clear title to the land they believed to be legally their own, I urge the Subcommittee to take favorable action on S. 1413.

Please note that there is an error in the bill before us. The bill should read on page 14, line 20, insert after the "5", the number "6", and the same again on page 15, line 1, after the "5".

Max Baucus

STATEMENT OF
SENATOR MAX BAUCUS, MONTANA

BEFORE THE SENATE SUBCOMMITTEE ON PUBLIC LANDS, RESERVE WATER AND RESOURCES CONSERVATION

To amend the National Trails Systems Act by
designating the Nez Perce Trail as a component
of the National Trails System

April 11, 1986

Mr. Chairman, thank you for the opportunity to testify in support of S. 1542.

This legislation, submitted by the Secretary of Agriculture, is the result of a study authorized by Congress in 1968. I want to commend the Forest Service and the National Park Service for their joint efforts. The study was completed in cooperation with affected federal, state and local government agencies, private corporations, interest groups and individuals. This kind of teamwork should be the hallmark of federal agency relationships. If there was more cooperation among agencies such as this, protection of our national parks from activities on adjacent federal lands would be less of an issue.

The proposal before the subcommittee would designate the entire 1,170-mile route of the 1877 flight of the nontreaty Nez Perce Indians as part of the National Trails System. The trail, which begins at the gathering in northeastern Oregon, traverses parts of four states -- Oregon, Idaho, Wyoming, and Montana.

The flight of these people, under extreme hardship, constant pursuit and devastating warfare, is an American tragedy. Yet the episode is also a shining example of courage, endurance and triumph of spirit. We should remember the events of this journey. In a world that is changing rapidly, we desperately need symbols, such as this trail, to remind us of who we were and where we have been, so that we can understand who we should be and where we should be going.

Designating this route a National Historic Trail would be a fitting memorial to Chief Joseph, the Nez Perce and all native Americans.

The Nez Perce Trail is particularly important to Montana. About half of the trail is in our state. In total, the trail traverses 15 counties from the point where the Nez Perce first entered the state southwest of Missoula to where the tragedy ended in the foothills of the Bear Paw Mountains between the Rocky Boy and Fort Belknap Indian Reservations. Of the 97 historical sites along the entire length of the trail, 47 are in Montana.

The Nez Perce entered Montana over the Lolo Trail into the Bitterroot Range, their traditional route to buffalo country in the east. At the Bitterroot River, their path turned south through the Bitterroot Valley and over Gibbon's Pass. They stopped on the North Fork of the Big Hole to rest and gather food. In the early morning of

August 9, they were attacked by Army troops and civilians led by Colonel John Gibbon. The 24-hour battle inflicted heavy casualties.

As the Nez Perce fled through the Upper Big Hole, they faced several skirmishes with settlers. They hurried over Bannock Pass and reentered Idaho.

Their route turned east through southern Idaho, reentered Montana at Targhee Pass, and then passed through the 5-year-old Yellowstone National Park in Wyoming into the Clark Fork of the Yellowstone Canyon, where they escaped a blockade by General Sturgis. With both Generals Howard and Sturgis in pursuit and under harrassment by Crows, the trail-weary Nez Perce fled northward into south central Montana along the Clark Fork.

Moving rapidly northward to Canada, their rear guard was attacked by Sturgis just north of the Yellowstone River. A valiant effort by the rear guard effectively held off the much advantaged military force, permitting the main body to escape through the rimrock to the High Plains above the Yellowstone.

The Nez Perce pushed north across the Musselshell River, through Judith Gap, and across the Missouri. They did not know, however, of Howard's message to General Miles who was fast closing in on them to the north. On September 30, 1877, Miles' cavalry with a large contingent of Sioux and Cheyennes swept down upon the Nez Perce's Snake Creek camp in the foothills of the Bear Paw Mountains, only 40 miles from the Canadian border.

Thus ended the final battle and one of the most dramatic and incredible episodes in Army-Indian warfare on the western frontier.

The Nez Perce fled to Montana to avoid war. As Chief Joseph later recalled:

> "We understood there was to be no war. We intended to go peaceably to the buffalo country and leave the question of returning to our country to be settled afterward."

It was in Montana, at the Big Hole Battle, that the Nez Perce realized the inevitability of war, and during the last portion of their flight in north central Montana, the full weight of their tragedy unfolded.

Yellow Wolf, a Nez Perce warrior, recalls the scene:

> "A young warrior, wounded, lay on a buffalo robe dying without complaint. Children crying with cold. No fire. There could be no light. Everywhere the crying, the death wail . . . I felt the coming end. All for which we had suffered lost."

Chief Joseph's surrender speech at the Bear Paw Battle was a fitting end to this chapter in American history.

> "Tell General Howard I know his heart. What he told me before I have in my heart. I am tired of fighting. Our chiefs are killed. Looking Glass is dead. Toohoolhoolzote is dead. The old men are all dead. It is the

young men who say yes or no. He who led the young men is dead. It is cold and we have no blankets. The little children are freezing to death. My people, some of them, have run away to the hills, and have no blankets, no food; no one knows where they are--perhaps freezing to death. I want to have time to look for my children and see how many I can find. Maybe I shall find them among the dead. Hear me, my chiefs, I am tired; my heart is sick and sad. From where the sun now stands, I will fight no more forever."

It has been 109 years since this tragic episode, and it has been 18 years since Congress commissioned the study of the Nez Perce Trail.

Mr. Chairman, it is time to give recognition to what happened along the 1,170 miles of human suffering by declaring the flight route of the Nez Perce a National Historic Trail.

However, I would like to make some recommendations for this bill. Currently, the bill does not contain any guidelines on how the trail should be developed following its designation as an historic trail.

I concur with recommendations in the Study Report and the selected alternative in the Environmental Assessment. I recommend that the subcommittee consider adding language to ensure that the comprehensive management plan, as required by the National Trails System Act and its amendments, be based on the Preferred Alternative as outlined in the Environmental Assessment. A major objective of the Preferred Alternative (C-1) is to reduce conflicts with private landowners. Only specific portions of the trail, identified as High Potential Route Segments and which are located on federal lands or lands managed by the states, would be developed. This is a reasonable alternative.

The subcommittee should also ensure that the Forest Service and other agencies provide adequate funding to develop and implement the management plan and that this not be accomplished at the expense of other high priority programs.

Mr. Chairman, I urge the subcommittee to approve this important legislation.

Statement of Senator John F. Kerry
Before the Subcommittee on Public Lands,
Reserved Water and Resource Conservation
on S. 1374
"Blackstone River Valley National Heritage Corridor Act of 1985"

I am very pleased to reaffirm my support as a cosponsor of S. 1374, a bill to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island. The Blackstone River Valley, known as the birthplace of the American Industrial Revolution and the first region to experience the widespread use of water power for industry, offers an ideal location for this planned linear park system which will link historic sites from Worcester to Providence.

The region underwent rapid development during the early 1800's upon completion of the Blackstone Canal, which connected the two cities over a distance of approximately 46 miles. The canal provided an effective means of transport of both industrial and agricultural products into and out of the area. Woolen and cotton manufacturing industries flourished when a more effective railroad system replaced the canal in the mid 1800's.

Today much of the industry is gone but the structures and the deep-rooted heritage still exist. This bill provides the mechanism to preserve this heritage, not only for those who live in the valley, but for all Americans to enjoy. The mills and associated transportation networks, along with the history of those who lived and worked in the Blackstone River Valley, tell the story of the industrialization of an area which had such a significant impact upon the growth of our nation. The legislation establishes a partnership among the National Park Service, the Commonwealth of Massachusetts, and the state of Rhode Island to make the Blackstone River Valley National Heritage Corridor a reality. Through the efforts of this partnership, those living within the valley, as well as visitors from outside the region, will be able to take advantage of the cultural, natural, and recreational resources of the Blackstone Valley's riverways, parks, and industrial relics. As a result of this legislation, a once thriving area will receive the impetus necessary for revitalization.

I commend Senator Chafee for introducing such an important piece of legislation and, along with my cosponsors, Senators Kennedy and Pell, I urge the adoption of S. 1374, The Blackstone River Valley National Heritage Corridor Act of 1985.

Testimony of Governor Norman H. Bangerter
State of Utah

on

S. 2265, A bill to authorize the establishment of the Burr Trail National Rural Scenic Road in the State of Utah

April 11, 1986

Senator Wallop and members of the Senate Subcommitee on Public Lands, Reserved Water & Resource Conservation, I am pleased to be able to present this testimony in support of the bill S. 2265, sponsored by Utah Senators Jake Garn and Orrin Hatch, concerning improving a rural scenic road in southern Utah known as the "Burr Trail".

The "Burr Trail" is an historic name associated with a pioneer travel route which passed through the Water Pocket Fold of what is now Capitol Reef National Park. This "trail" was later improved by the Atomic Energy Commission and was then primarily used as an uranium haul road. Because this road provides the only vehicle access in an east-west direction across Garfield County, it has been continually maintained as a Class 'D' county road. In 1972 during Congressional Hearings to establish the Glen Canyon National Recreation Area, several road proposals were discussed for access into and around the recreation area. These road proposals had previously been identified in a 1966 Utah Department of Transportation assessment of road alternatives as part of the planning activities for developing the Glen Canyon National Recreation Area. In particular, there was a proposal to construct a new road from Bullfrog Basin on Lake Powell traversing the Escalante River to Glen Canyon City in Kane County. This new road was opposed by all the environmental organizations testifying at the hearings. In lieu of a new road, several of these organizations proposed an alternative they called the

Canyon Country Parkway. This proposed parkway was to consist of existing roads upgraded to provide the desired access into and around the recreation area. The Trail was specifically mentioned as one of the existing roads which should become a part of the Canyon Country Parkway.

Since then, the proposed Trans-Escalante highway has been shown to be not only too expensive to build but would also route tourist travel away from the local communities and negatively impact their tourist economy. Also, building a new road across the Escalante Wilderness would be highly controversial. So, as time went on, the Canyon Country Parkway became the preferred alternative to a new road. From these activities has emerged our current tourism transportation system's plan which we are now calling the Grand Circle Adventure.

The transportation system is based on a regional plan utilizing existing roads and highways and is well on its way to becoming reality. Recently two other components of this plan were completed. The Grover-to-Boulder highway paving project was finished last year, providing a safe all-weather spectacularly scenic drive over Boulder Mountain connecting with the Burr Trail in the Town of Boulder. Also last year the John Atlantic Burr ferry began regular service on Lake Powell between Halls Crossing and Bullfrog Marina.

The Burr Trail will connect the John Atlantic Burr ferry boat at Bullfrog Basin Marina with an all-weather scenic road to the town of Boulder where it would connect to the

Grover-to-Boulder highway and to State Highway 12, providing direct access to Bryce and Zion Canyon National Parks. The Boulder-Bullfrog Scenic Road (Burr Trail) would also provide a unique loop road system through and around Glen Canyon Recreation Area and Capitol Reef National Park.

With the recent addition of the ferry boat and the proposal to pave the existing Boulder-Bullfrog Scenic Road, the Grand Circle Adventure will be perhaps the most scenic and awe-inspiring drive in the country. Not only will this transportation system provide the tourist with an unparalleled spectacular tour, but it will also take them to the resorts and towns which provide necessary services and facilities.

The Colorado Plateau area is a region of outstanding scenic and recreational values. The state is very proud of the unique nature of the area and wants to share that beauty with our own citizens and those that visit the state of Utah. We work cooperatively with many groups on proposed tourism developments. For example the state has been involved in creative and aggressive tourism promotional activities in the region. The Navajo nation has proposed two new marinas on Lake Powell and expansion plans at Halls Crossing Marina have been approved.

These will provide a much needed infusion of tourism income to the local economies. Much of this region is experiencing high unemployment and economic stagnation due to the current state of the uranium industry and the low price of oil. Tourism, therefore, has taken on an increased importance in the regional economy.

Even with the present austere economic climate we are experiencing, it is essential to spend money now on the necessary infrastructure to accommodate future tourism if we want tourism to succeed on the Colorado Plateau. An adequate completed transportation system is essential to the success of our efforts in promoting tourism. The Burr Trail is an important link to that system. The Utah Legislature showed their commitment by appropriating $1.7 million during the last session to help pay some of the costs of upgrading the Burr Trail. They did that even during this time of economic austerity because they knew that upgrading the Burr Trail is an investment in the future of tourism in Southern Utah, and in the needs of local communities of our state and region.

As I have stated, one of the primary reasons for improving this road is to provide a highly unique scenic drive through some of the most beautiful and spectacular country in this part of our state. Obviously, I am concerned that the beauty of this area not be compromised by improving this road. I am convinced that this proposal would not result in negative environmental impacts to the area. I am convinced that we can pave the Burr Trail creating the much sought after all-weather low-speed scenic road without undue or undesirable environmental impacts to the area.

This proposal has been developed through many hours of work by the Park Service, the Garfield County Commission and our state people. They are to be complimented for the work they have done. I would also like to commend the Director of the National Park Service, William Penn Mott, for taking the interest to personally come out and drive the road and to propose a compromise that balanced the opposing interest.

I am convinced that we can improve the Burr Trail creating an all weather low speed scenic road without undue or undesirable environmental impacts. In addition, if we use our common sense, along with fiscal acumen we will design a road that will serve its intended purposes and one we can afford to build.

Finally, I have one last thought to express at this hearing. Due to the historical significance of this road, I think the new scenic road ought to retain its well-known name. It should be designated as the "Burr Trail Scenic Road" or an equivalent wording. Thank you.

Senator **Wallop**. I might say that Senator Baucus and others of my colleagues from the Finance Committee are up there. This is one of those days where I wish I could be very much two people. The Finance Committee is holding a hearing on the Canadian free trade, clearly a matter of concern and interest in my State of Wyoming, not only with the timber but as well with the uranium and with the livestock industry, and, as I understand it, Massachusetts has some interest in that arrangement as well, but what brings us here is S. 1374.

I would ask Representative Moore to begin.

STATEMENT OF RICHARD T. MOORE, STATE REPRESENTATIVE, UXBRIDGE, MA

Mr. **Moore**. Thank you, Mr. Chairman.

For the record, Representative Richard Moore, member of the Massachusetts House of Representatives, and chairman of the Massachusetts Blackstone River and Canal Commission.

I would ask that my remarks be entered into the record, and I will just summarize a few points and also respond to a couple of points that were made earlier both by the National Park Service and by one of the members of the subcommittee.

Senator **Wallop**. By all means. Let me stop and restart this at the moment. I am not going to waste your time by having each of you ask that your entire statement be put in the record. Each of them will be, and use your time, because I realize that it is abbreviated, and I apologize for that, but there is no need for you to ask me. Every statement will be inserted.

Mr. **Moore**. Thank you, Mr. Chairman.

First, I would like to indicate that with respect to the study done by the National Park Service of the Blackstone River and Canal in 1983-84, that the recommendation, while it was not for the establishment of a national park, it did recommend the designation of the national heritage corridor. I think that is an important difference in what this legislation does in fact address itself to.

Furthermore, with regard to the commitment of the States, while it was indicated earlier by the two Senators from Rhode Island that $1 million from that State has been committed, Massachusetts has already appropriated and is spending some $5.5 million for this heritage park project.

The legislation would benefit our community and region in several ways. It would afford our region national recognition and visibility to help us to restore pride in our region and promote tourism that would strengthen local and regional autonomy, establish a governmental entity to coordinate the historic preservation, environmental protection, and economic development of Massachusetts and Rhode Island, both State and local governments, and it would access the expertise and technical assistance of the National Park Service to supplement ongoing efforts by the departments of environmental management in both Massachusetts and Rhode Island, and you will hear more about that from other witnesses.

The limited Federal investment that is called for in S. 1374, the corridor would provide the leadership in the organization to revitalize our region. It made a significant contribution to the founding of our Nation over 200 years ago, which then launched the industrial revolution which brought America to world leadership, a region which suffered economic decline and suffered neglect even by its own people, but which now is experiencing a growing pride in its past, and optimism in its future.

Mr. Chairman, I would recommend that the committee look very carefully, and hopefully favorably, at this legislation, and perhaps get into further discussions with the staff or with the National Park Service regarding their actual recommendations.

[The prepared statement of Mr. Moore follows:]

Overview of
Testimony in Support of Senate 1374
Regarding the Designation of a Blackstone River Valley
National Heritage Corridor
Submitted to the United States Senate
Committee on Energy and Natural Resources
by Massachusetts State Representative Richard T. Moore
Chairman, Blackstone River and Canal Commission

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Mr. Chairman and Members of the Senate Committee on Energy and Natural Resources:

My name is Richard T. Moore of Williams Street, Uxbridge, a community in the Massachusetts portion of the Blackstone Valley region. I am a member of the Massachusetts House of Representatives and have served since 1982 as the House designee and Chairman of the Blackstone River and Canal Commission established under the provisions of Chapter 568 of the Acts of 1981.

The Blackstone Valley region, as the birthplace of America's Industrial Revolution, enjoys national, as well as local, significance and, therefore, has been chosen as the site for the first non-urban, multi-community heritage park in Massachusetts.

We see in the designation of a Blackstone River Valley National Heritage Corridor, as proposed in Senate 1374, the vehicle which will help us to achieve our goal.

This legislation would benefit our community and our region in several ways.

- it would afford our region national recognition and visibility to help us to restore pride in our region by our residents and promote tourism that would strengthen the local and regional economy.
- It would establish a governmental entity to coordinate the historic preservation, environmental protection and economic development of Massachusetts and Rhode Island state and local governments.
- It would access the expertise and technical assistance of the National Park Services to supplement ongoing efforts by the Department of Environmental Management of Massachusetts and Rhode Island to establish Heritage State

Parks and greenway/trail systems along the historic Blackstone River and Canal.

- It would assist our local governments with planning for appropriate development adjacent to the river and canal to develop a coordinated heritage resource plan and protection strategy for the Valley.

Because the towns in the Blackstone River valley will increase in population and development regardless of what the Congress does relative to designation of a National Heritage Corridor, the real question is to what kind of life and community can our region look forward as underutilized land and a declining textile industry invite the kinds of uses that no one else in the region wants. The real point of the Heritage Corridor is, therefore, to begin reversing the impact of failure on the landscape, and to give the region the identity and sense of its heritage.

There should be no mistake about the National Heritage Corridor's economic impact on the communities through which it runs. We know that a National Heritage Corridor designation cannot guarantee revitalization. For that to happen, people with private capital and imagination must become interested enough to invest in the area.

If one examines the kind of development that is likely to take place in the region, it becomes clear what the National Heritage Corridor must do. Typical development will almost certainly be housing, retail or manufacturing. People employed by these industries are looking for quality of life-culture, recreation, places of interest, a beautiful landscape.

The 1984 National Park Service study of the Blackstone River Corridor suggested that state and local governments needed to take several steps in order to lay a proper foundation for a National Heritage Corridor. The report suggested the need of cooperative efforts among Valley communities and between the two states. It suggested a greater state and local commitment to the preservation of the River and Valley heritage. Let me, briefly, review our accomplishments in both areas:

Cooperation:

- Regional public-private bi-state development conferences to plan for future growth.

- The establishment of the Blackstone River and Canal Commission to coordinate state and local efforts to establish a regional heritage park.

- Both Massachusetts' and Rhode Island's Departments of Environmental Management are cooperating and sharing planning information.

- Federal, State and local governments have invested in efforts to clean up the Blackstone River.

Commitment:

- To date, $5.5 million in Massachusetts and $1 million in Rhode Island authorized for Blackstone River improvement.

- A $50,000 grant for regional strategic planning including development of zoning protection along the Blackstone River.

- Scheduling a tremendous "homecoming" celebration this fall to celebrate our heritage and highlight our new Heritage Park.

- The private sector Blackstone Valley Development Corporation has contracted to plan a tourism, marketing and educational plan for the Heritage Park.

- Establishment of a land, preservation trust by the Blackstone River Watershed Association to save undeveloped river front property.

Essentially, we've been doing a good deal to reclaim the heritage of the Blackstone Valley through our cooperation and commitment toward common goals, but the process has been slow.

We need to formalize the cooperation efforts of the two states and the Valley corridor communities, but in a way that preserves and strengthens local control. In fashioning this new partnership within the Blackstone Valley and with the Federal government, there is no substitute for the judgement and leadership of individuals who live in a community, are knowledgable about its people and institutions and who care about its future.

Consequently, the bi-state commission proposed in Senate 1374, composed largely of local officials from Valley communities is essential to serve as the official body to coordinate the implementation of the National Heritage Corridor.

Finally, and most significantly, the Heritage Corridor Commission could provide that most important ingredient - leadership.

The efforts of Massachusetts and Rhode Island and their Valley corridor communities must have the leadership of their best collective efforts. No official of one state or one community is likely to be accepted no agency of one state, and not the Federal government alone will be fully accepted by all other parties. However, the bi-state commission representing the three levels of government and the region as a whole presents a unique opportunity to provide the leadership necessary to bring this very complex and comprehensive, yet exciting and innovative project to a successful conclusion.

For a limited Federal investment, the Corridor will provide the leadership and the organization to revitalize a region that made a significant contribution to the founding of our Nation over two hundred years ago, and which then launched the Industrial Revolution which brought America to world leadership. A region which suffered economic decline and suffered neglect, even by its own people. But which is now experiencing a growing pride in its past and optimism in its future.

This limited Federal investment can maximize the already committed investment of the two states, and can nourish an important public-private partnership which is already beginning to develop with local businesses and new businesses yet to locate in the Valley. An investment that can lead to significant contributions to historic preservation, environmental reclamation and economic growth that will provide substantial returns to our National character. Reclaiming the heritage of the Blackstone Valley, recalling the pioneering vision an vitality of those who made our region the birthplace of America's Industrial Revolution.

Senator **Wallop**. Thank you very much, Representative Moore. Commissioner Kumor.

STATEMENT OF ROBERT F. KUMOR, DEPUTY COMMISSIONER, PLANNING AND DEVELOPMENT, DEPARTMENT OF ENVIRONMENTAL MANAGEMENT, STATE OF MASSACHUSETTS

Mr. **Kumor**. Thank you.

On behalf of the Dukakis administration, Senator, I would like to address once again the question raised by the Senator from Alaska concerning the commitment on the part of the Commonwealth of Massachusetts to heritage parks within the Commonwealth. We currently have allocated some $5.5 million of Commonwealth moneys to the Blackstone Valley.

We would like very much to work in close cooperation with the State of Rhode Island to develop the Blackstone Valley from Providence to Worchester as a cohesive corridor. The Blackstone Valley has been targeted by the administration of Governor Dukakis as one of the most important regions in the Commonwealth for the stimulus of economic development. One of the principle reasons for the development of the valley is its significant cultural heritage.

For this reason, Massachusetts has designated the Blackstone River corridor as the first regional facility in our system of heritage State parks. As we indicated, the first phase of funding is currently underway, and we will be building a visitor's center, housing interpretive exhibits, exterior restoration of the still-operating Stanley Woolen Mill, and landscape restoration in the town of Uxbridge.

Subsequent phases will include development of other park nodes throughout the corridor and a visitor rail excursion from Providence and Worchester Railroad. We look forward to the assistance and collaboration of the National Park Service in our efforts to preserve and interpret the unique heritage of the Blackstone Valley.

Our experience in working closely with the National Park Service in a very similar endeavor in Lowell, MA, has been extraordinarily fruitful. In that city, the Commonwealth's Lowell Heritage State Park was joined in the late 1960's by the Lowell National Historic Park and the federally funded Lowell Historic Preservation Commission.

While recognizing that we are not here today considering the establishment of another national park, I think the type of cooperation that currently exists between the Commonwealth and the National Park Service can be extended in the area of the designation that is currently the subject of Senate bill 1374.

The national heritage corridor proposal for the Blackstone Valley would bring to this area some of the most successful features of Federal involvement in Lowell. This bold regional initiative warrants national attention and support. The Commonwealth of Massachusetts welcomes the opportunity to work closely with its neighbors in the State of Rhode Island under the national heritage corridor.

Thank you very much.

[The prepared statement of Mr. Kumor follows:]

Robert F. Kumor

Deputy Commissioner for Planning and Development

Massachusetts Department of Environmental Management

Testimony in Support of the Proposed Blackstone River National Heritage Corridor

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April 11, 1986

I am pleased to offer testimony in support of the proposal to establish a National Heritage Corridor along the Blackstone River in the States of Massachusetts and Rhode Island.

The Blackstone Valley has had an illustrious history in bringing the industrial revolution to New England. The National Heritage Corridor will provide deserved recognition to the area's role in building the cities of Providence, Rhode Island, Worcester, Massachusetts and the many smaller communities in between.

The Blackstone Valley today has been targetted by the Administration of Massachusetts Governor Michael S. Dukakis as one of the most important regions in the Commonwealth for the stimulus of economic development. One of the principal resources for development in the Valley is its enormously significant cultural heritage.

For this reason, Massachusetts has designated the Blackstone River corridor as the first regional facility in our system of Heritage State Parks. The first phase of development is currently underway. Funded with $4 million in state park funds, this phase will see the construction of a Visitors Center, housing interpretive exhibits, exterior restoration of the still-operating historic Stanley Woollen Mill, and landscape restoration in the town of Uxbridge, Massachusetts. The centerpiece of this phase will be a restored section of the original Blackstone Canal, over which mule-drawn canal barge excursions will be run. Subsequent phases will include development of park nodes in several other towns in the Valley, guided bicycle routes throughout the corridor and visitor rail excursions over the Providence and Worcester railroad tracks.

We look forward to the assistance and collaboration of the National Park Service in our efforts to preserve and interpret the unique heritage of the Blackstone Valley. Our experience in working closely on a very similar endeavor in Lowell, Massachusetts has been extraordinarily fruitful. In that city, the Commonwealth's Lowell Heritage State Park was joined in the late 1970's by the Lowell National Historical Park and the Federally-funded Lowell Historic Preservation Commission.

The National Heritage Corridor proposal for the Blackstone Valley would bring to this area some of the most successful features of the federal involvement in Lowell. This bold regional initiative warrants national attention and support.

The Commonwealth of Massacahusetts welcomes the opportunity to work closely with our neighbors in the State of Rhode Island under the rubric of the National Heritage Corridor. For these reasons, I strongly urge your favorable consideration of this proposal.

Thank you.

Senator WALLOP. Thank you, Commissioner.

Director Bendick.

STATEMENT OF ROBERT BENDICK, JR., DIRECTOR, DEPARTMENT OF ENVIRONMENTAL MANAGEMENT, STATE OF RHODE ISLAND

Mr. BENDICK. Thank you. My name is Bob Bendick. I am director of the Rhode Island Department of Environmental Management. I am here today representing the State and the Governor, and I have a letter of support from the Governor.

A National Park Service report to Congress in 1984 did in fact say that the Blackstone Valley had national significance as the birthplace of the American Industrial Revolution. The valley is unique in its ability to convey those themes of the industrial revolution to the general public.

Despite this legitimate national importance, however, the Blackstone Valley has received little national support or recognition. Even the famous original Slater Mill struggles along from year to year as a museum operated by a local nonprofit organization. There has been talk of a park along the Blackstone for many years, and as you have heard, both Rhode Island and Massachusetts are now proceeding toward that park.

However, we do not believe that we in the two States should bear the entire burden of interpreting and preserving this nationally significant area. The legislation would give us national recognition. It would provide experience and expertise in interpreting this unique industrial history, and it would ensure cooperation between the two States.

We in Rhode Island fully realize that these are the most difficult of times to be making requests for new Federal participation, but we believe that the intent of the national heritage corridor legislation is relevant to today's national problems.

Some of our current economic ills stem from our failure as a country to compete successfully in world markets. The National Park Service owns, restores, and operates dozens of Indian fort and battlefields which explain the conquest of the west and military history.

Is it not just as important that the birthplace of the American Industrial Revolution be preserved and explained to show the creativity of our entrepreneurs and the productivity of our workers? Passage of the Blackstone Valley Heritage Corridor legislation would create a historical park which would explain to people from all over the country the ingredients of economic success and the consequences of a failure to compete. I can see few national historical lessons more important or urgent than this one.

Dr. Patrick Malone, who is a worldwide expert on industrial history, will fill in the rest of Rhode Island's testimony.

[The prepared statement of Mr. Bendick follows:]

PREPARED STATEMENT OF ROBERT BENDICK, JR.

My name is Robert Bendick, Jr. and I am representing the State of Rhode Island in testifying in support of Bill S 13-74, a bill to designate the Blackstone Valley in Rhode Island and Massachusetts as a National Heritage Corridor.

The Blackstone River runs from central Massachusetts southward across the border into Rhode Island emptying into the tidal Seekonk River in Pawtucket. The Seekonk then enters Narragansett Bay at Providence. The Blackstone River Valley was the birthplace of the American Industrial Revolution. In Pawtucket in 1793 Samuel Slater opened the country's first textile mill.

A National Park Service report to Congress issued in 1984 declared that the Blackstone Valley has national significance saying:

> The mills, villages and associated transportation networks and the social history of the settlers who lived and worked in the Blackstone Valley together tell the story of the industrialization of the 18th and 19th Century America. The technology and organization of manufacturing pioneered in the Blackstone Valley influenced industrial development in the rest of the country.

And, perhaps because it was one of the first industrial regions, it was also one of the first to experience decline of its industry and loss of its manufacturing jobs. This story, too, is important and nationally significant.

The valley today is unique in its ability to convey through its rich social history and extensive physical remnants and ruins, major portions of the history of the textile industry in New England, of the canal-building era, and of the immigrant groups that came to the area.

In addition to its historic importance, the river has beautiful natural stretches and scenic areas that provide green spaces and opportunities for recreation in the midst of a densely populated valley. After years of neglect and misuse, the river and its banks are becoming cleaner through water pollution control projects and local beautification efforts.

Despite its legitimate national importance, the Blackstone Valley has received little National support or recognition. Even the famous original Slater Mill struggles along from year to year as a museum operated by a local non-profit organization.

There has been talk for almost twenty years about creating parks along the Blackstone. Finally over the last several years both States have drawn up park plans and are moving ahead to carry these plans out. In Rhode Island our park would have four major elements:

1. Open land is being saved along the river for walking, picnicking, nature observation and canoeing. Local parks are being tied to a larger state park system.
2. The history of the mills and mill towns and the people who worked and lived there will be preserved and explained through exhibits, walking tours, publications and visitor centers. Two such centers are planned - one at the Slater Mill which will explain the technical history of the industrial revolution. A second visitor center will explain the social and ethnic history of life in the mill towns. Private historic preservation will be encouraged to supplement public efforts.

3. A bicycle path will run along the river providing transportation, recreation and access to park sites. The Providence & Worcester Railroad will provide transportation for people not wishing to ride bikes or walk.
4. There will be strong connections to the Blackstone River and Canal Park to the north and through a restored Providence Waterfront, to the Narragansett Bay Islands Park to the south.

So far, Rhode Island voters have allocated $1,000,000 in bond funding to this project as well as State and Federal transportation funds for construction of the bikeway, but we believe that we cannot and should not have to preserve and interpret this important piece of our National heritage without some Federal recognition and help. The National Heritage Corridor Legislation is important for several reasons:

* The legislation would provide national recognition for the Blackstone. National recognition is essential in making the people of Rhode Island realize the value of their own heritage and thus in encouraging participation by individual, local governments and private investors in developing the park and in saving and restoring adjacent buildings.

* Rhode Island has no experience setting up the kind of historical park envisioned here. National Park Service assistance is essential if the park is to achieve the kind of quality we all want to see.

* Neither Rhode Island nor the Slater Mill Museum can provide enough money to create the interpretive programs needed in the park. Even limited funding combined with technical assistance would make a great difference.

* Finally, the legislation would insure cooperation between the two states in creating a park system with national impact.

We in Rhode Island fully realize that these are the most difficult of times to be making requests for new Federal participation. But we believe that the intent of this National Heritage Corridor Legislation is relevant to today's national problems. Some of our current economic ills stem from our failure as a country to compete successfully in world markets. The National Park Service owns, restores, and operates dozens of Indian Forts and battlefields which explain the conquest of the west and our military history. Isn't it just as important that the birthplace of the American Industrial Revolution be preserved and explained to show the creativity of our entrepreneurs and the productivity of our workers?

Passage of the Blackstone Valley Heritage Corridor Legislation would create an historical park which would explain to people from all over this country the ingredients of economic success and the consequences of a failure to compete. I can see few National historic lessons more important, or urgent than this one.

Senator WALLOP. Thank you.
Dr. Malone.

STATEMENT OF DR. PATRICK M. MALONE, DIRECTOR, SLATER MILL ASSOCIATION, PAWTUCKET, RI

Dr. MALONE. As a historian of technology and a museum interpreter of American industrial development, I have a natural interest in the valley which is truly the cradle of American industry.

The Blackstone Valley is rich in the physical remains of historic manufacturing enterprises, water power sites, and transportation systems. Its towns and cities owe their growth and in many cases their decline to the mills which once hummed with the sounds of machinery in motion. The cultural heritage of millworkers from many ethnic backgrounds still colors life in the valley, and keeps alive the craft traditions and occupational pride that built this Nation.

I strongly believe that our Federal Government should establish the Blackstone Valley National Heritage Corridor and form a commission which can assist in the preservation and interpretation of this region's highly significant cultural and natural resources.

Historians mark the beginnings of the American Industrial Revolution on the banks of the Blackstone River, where Samuel Slater introduced the power spinning of cotton yarn at Pawtucket in 1790, and where local artisans made the machinery for a new factory system. The rapid growth of the textile industry in Rhode Island and Massachusetts spurred the sustained economic expansion that made the United States a strong and independent nation.

The textile mills and machine shops of the Blackstone Valley were the vanguard of the industrial age that has so dramatically shaped our American culture. The history of the valley goes back much further than Slater. Indians came here for the great runs of salmon, shad, and alewives. White men came for the fishing, the fertile land, and the power they saw in falling water. There were mills on the Blackstone as early as 1672, and Pawtucket was a thriving manufacturing and maritime supply center in the 18th century.

Throughout the valley men set up water-powered mills to grind grain, saw lumber, finish handwoven cloth, and work metal. Industrial development in the 19th century profoundly altered the landscape of the valley and patterns of everyday life. The mill village appeared in the rural interior, and brought with it paternalistic controls and time discipline that affected the lives of every inhabitant.

The extensive architectural survival of mills, corporate housing, churches, meeting halls, and commercial blocks in numerous Massachusetts and Rhode Island mill villages is one of the greatest cultural resources of the valley. The valley still has the first cotton textile mill and many other national registered sites. It is a valley in which the census of 1880 said it would be hard to find another stream in the country so completely utilized.

It contains material evidence of all the stages of American transportation history, including the Blackstone Canal, a wonderful historical and recreational asset, built between 1825 and 1828 to connect Worchester with the Port of Providence.

Economic failure, the fate of the Blackstone Canal Co. in 1849, has been no stranger to the valley. The vacant mills and silenced rooms that became so common in the last 50 years are physical symbols of the industrial changes, market shifts, and competition that overwhelmed the New England textile industry.

The Blackstone Valley National Heritage Corridor can help to heal many of the wounds suffered by this valley and its people. It can generate pride in past achievements while also teaching important lessons and providing warnings for the American future. It can help preserve and take advantage of a unique industrial legacy and a striking physical landscape.

I urge you to give this valley, which nurtured the industrial revolution, the national recognition it so richly deserves.

[The prepared statement of Dr. Malone follows:]

TESTIMONY
IN SUPPORT OF
S. 1374
BLACKSTONE VALLEY NATIONAL HERITAGE CORRIDOR LEGISLATION

PATRICK M. MALONE, PH. D.
DIRECTOR, SLATER MILL HISTORIC SITE
LECTURER IN AMERICAN CIVILIZATION, BROWN UNIVERSITY

APRIL 11, 1986

As an historian of technology and a museum interpreter of American industrial development, I have a natural interest in the valley which is truly the cradle of American industry. The Blackstone Valley is rich in the physical remains of historic manufacturing enterprises, water power sites, and transportation systems. Its towns and cities owe their growth, and in many cases their decline, to the mills which once hummed with the sounds of machinery in motion. The cultural heritage of mill workers from many ethnic backgrounds still colors life in the valley and keeps alive the craft traditions and occupational pride that built this nation. I strongly believe that our federal government should establish the Blackstone Valley National Heritage Corridor and form a commission which can assist in the preservation and interpretation of this region's highly significant cultural and natural resources.

Although the impressive recreational potential of the proposed corridor is worthy of lengthy comment, I would like to concentrate my remarks on the historical significance of this industrialized area which links two New England states.

Historians mark the beginnings of the American industrial revolution on the banks of the Blackstone River, where Samuel Slater introduced the power spinning of cotton yarn at Pawtucket in 1790, and where local artisans made the machinery for a new factory system. The rapid growth of the textile industry in Rhode Island and Massachusetts spurred the sustained economic expansion that made the

United States a strong and independent nation. The textile mills and machine shops of the Blackstone Valley were the vanguard of the industrial age that has so dramatically shaped our American culture.

The history of the valley goes back much further than Slater, of course. Indians came here for the great runs of salmon, shad, and alewives. White men came for the fishing, the fertile land, and the power they saw in falling water. There were mills on the Blackstone as early as 1672, and Pawtucket was a thriving manufacturing and maritime supply center in the 18th century. Throughout the valley, men set up water-powered mills to grind grain, saw lumber, finish hand-woven cloth, and work metal.

Industrial development in the 19th century profoundly altered the landscape of the valley and the patterns of everyday life. The mill village appeared in the rural interior and brought with it paternalistic controls and time discipline that affected the lives of every inhabitant. Slatersville was the first of these American communities dominated by a textile company; the City of Woonsocket was later formed by the integration of six separate mill villages. The extensive architectural survival of mills, corporate housing, churches, meeting halls, and commercial blocks in numerous Massachusetts and Rhode Island mill villages is one of the greatest cultural resources of the valley.

The valley still has the first cotton textile mill, the shop of the founder of both the textile machinery and machine tool industries, the earliest known example of slow-burning mill construction, the first horse-hair cloth mill, a limestone quarry in operation since the 1660s, and so many other nationally significant industrial and engineering sites that it would take pages to list them. National Register sites abound in this region where tightly spaced waterfalls concentrated the built environment along a short river system. The U.S. Census of 1880 said of the Blackstone's water power, "It would be hard, in fact, to find another stream in the country so completely utilized."

This valley contains material evidence of all the stages of American transportation history, from early Indian paths to wagon roads, rural turnpikes, canals, railroads, trolley lines, and modern highways. The Blackstone Canal, a wonderful historical and recreational asset, still exists in various levels of survival over most of its historic path. Built between 1825 and 1828, the canal connected Worcester with the port of Providence and supplied much-needed transport for the mill villages and agricultural areas between. The railroad which replaced it continues to operate today.

Economic failure, the fate of the Blackstone Canal Company in 1849, has been no stranger to the valley. The vacant mills and silenced looms that became so common in the last fifty years are physical symbols of the industrial changes, market shifts, and competition that overwhelmed the New England textile industry. The skills of tens of thousands of textile and metal workers were no longer in demand, and the entire region felt the human tragedy of industrial decline. Although there is still a substantial industrial base and new development, discussions of local history with long time residents usually reveal a trace of sadness, bitterness, and wounded pride.

The Blackstone Valley National Heritage Corridor can help to heal many of the wounds suffered by this valley and its people. It can generate pride in past achievements while also teaching important lessons and providing warnings for the American future. It can help preserve and take advantage of a unique industrial legacy and a striking physical landscape. I urge you to give this valley, which nurtured the industrial revolution, the national recognition it so richly deserves.

Senator **Wallop**. Thank you, Dr. Malone.

I have now another vote. And that is going to be the case as we go through the morning. We will probably submit some questions if they occur. You heard one of the complications, and it is a reality of budget right now, but let me assure you that I understand the purposes for which you came down here and for which the bill was introduced. There may be some means by which it can be addressed that give it the recognition that you, Dr. Malone, have suggested it richly deserves.

So, I am going to excuse this panel and ask that while I put the committee into recess for a few minutes, Commissioner Tom Hatch of the Garfield County Commission of Panguitch, UT, Mr. Clem Church, Utah State Road Commissioner, Mr. Steve Creamer, Garfield County Engineer, Booth Wallentine of the Utah Farm Bureau, and Ms. Louise Liston of Escalante, UT, be ready to come to the table so we can pick right up again when I return.

Thank you.

[Recess.]

Senator **Wallop**. The subcommittee will come back to order, and we will start with Commissioner Hatch.

STATEMENT OF TOM HATCH, COMMISSIONER, GARFIELD COUNTY COMMISSION, PANGUITCH, UT

Mr. **Hatch**. Mr. Chairman, it is a pleasure to have the opportunity to address you this morning.

I am Commissioner Tom Hatch of the Garfield County Commission, and it has been a long uphill battle to get to the point we are at here today. I feel that the proposal which we are here to discuss is the end result of lengthy discussions on both the part of the National Park Service, the State of Utah, the Bureau of Land Management, Garfield County, and others concerned with the proposal to upgrade the Burr Trail.

I would like to take this opportunity to thank Director Mott for taking the time to make an onsite inspection of the road before he makes any decision on the issue. He has shown his ability to compromise, and has the knowledge from the visit to the area to make sound decisions.

As you may or may not be aware, Garfield County is an area in southern Utah comprised of over 5,000 square miles of some of the most scenic and rugged area to be found in the United States. Of those 5,000 square miles, over 97 percent are owned and controlled by the Federal Government, with persons such as yourselves, who are faced with the task of implementing laws and policy for the management of these lands.

These lands have vast natural resources which in many instances U.S. managers of these lands have chosen not to be allowed to be developed because of possible conflicts with the scenic natural attractions which are located in our area. Since the early planning stages of the Lake Powell Recreational Area, there has been a strong unified approach by the State and local elected officials to improve and pave the Burr Trail Road.

All agree that this important link is the scenic and recreational highway network needed and justified to provide in-line travel between Lake Powell Recreational Area and other scenic wonders in this region such as the Boulder Mountains, Bryce Canyon National Park, Zion National Park, Capitol Reef National Park, Glen Canyon, and the many others in our area.

Such mobility and recreational travel is important to serve the pleasures of visitors who travel this route either to or from Lake Powell recreation facilities, and does add significantly to the local and regional economy. The Burr Trail traverses through some of these spectacular scenic areas, and connects the eastern communities of Garfield County with the Glen Canyon National Recreation Area. By paving portions of the road and upgrading the remainder to an all-weather gravel surface as Director Mott has proposed, we in county government anticipate not only solving the logistics problem for the local citizens, but more importantly a great potential for economic growth and tourism in our county.

Support from the people of Garfield County for this project is overwhelming, as evidenced at the hearings held by the National Park Service in southern Utah last spring, and we currently have $1.4 million of local funds in place. We have enjoyed great support from our congressional delegation and both present and past Governors of the great State of Utah.

The recent legislation to set aside $1.7 million by the Utah State Legislature should indicate to you and members of your committee that the people of Utah are united behind this project.

Tourism may be the only resource that we will be allowed to promote and develop——

Senator WALLOP. Can I ask you——

Mr. HATCH. Sorry, sir.

Senator WALLOP. The whole thing will be in there. I appreciate how far you all have come, but I am trying to get others who have come as far in before the time runs out. I appreciate it.

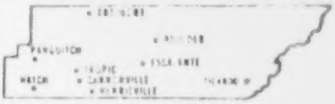
Mr. HATCH. OK. Thank you, sir.

Senator WALLOP. Thank you for your courtesy.

[The prepared statement of Mr. Hatch follows:]

COUNTY COMMISSION
H. Dell LeFevre, Chairman
Guy Thompson
Tom Hatch
Hazel Houston, Clerk

GARFIELD COUNTY



PANGUITCH, UTAH 84759

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Patrick B. Nolan, Attorney
Maurine D. Hatch, Recorder
Mattie Howell, Treasurer
Vic Middleton, Sheriff
John W. Yardley, Justice of the Peace

GARFIELD COUNTY COMMISSION
TESTIMONY, APRIL 11, 1986
BURR TRAIL SCENIC ROAD

Mr. Chairman and Members of the Committee, it is a pleasure to have this opportunity to address you this morning. I am Commissioner Thomas Hatch of the Garfield County Commission. It has been a long uphill battle to get to the point we are here today. I feel that the proposal which we are here to discuss is the end result of lengthy discussion on both the part of the National Park Service, The State of Utah, The Bureau of Land Management, Garfield County and others concerned with the proposal to upgrade the "Burr Trail".

I first want to thank Director Mott for taking the time to make an on site inspection of the road before making any decision on the issue. He has shown his ability to compromise and has the knowledge from his visit to the area to make sound decisions.

As you may or may not be aware, Garfield County is an area in Southern Utah compiled of over 5000 square miles of some of the most scenic and rugged area to be found in these United States, of those 5000 square miles over 97 percent are owned and controlled by the Federal Government with persons such as yourselves who are faced with the task of implementing laws and policy for the management of this land. These lands have vast natural resources which in many instances you as managers of these lands have chosen not to be allowed to be developed because of possible conflicts with the scenic natural attractions which are located here.

Since the early planning stages of the Lake Powell Recreational Area, there has been a strong, unified approach by State and Local elected officials to improve and pave the "Burr Trail" road. All agree that this important link is the scenic and recreational highway network needed and justified to provide in-line travel between Lake Powell Recreational areas and other scenic wonders in this region, such as, Boulder Mountain, Bryce

Canyon National Park, Zion National Park, Capitol Reef National Park, Glen Canyon and others. Such mobility in recreational travel is important to serve the pleasure of visitors who travel this route either to or from the Lake Powell Recreation facilities, and does add significantly to the local and regional economy.

The Burr Trail traverses through some of these spectacular scenic areas and connects the Eastern communities of Garfield County with the Glen Canyon National Recreation area. By paving portions of the road and upgrading the remainder to an all weather graveled surface as Director Mott has proposed, we, in County Government, anticipate not only solving a logistics problem for the local citizens, but more importantly a great potential for economic growth from tourism in our county. It may be of interest to you that the vastness of our county is crossed only by four paved routes at the present time. With the completion of the John Atlantic Burr Ferry across beautiful Lake Powell this past year, the potential for tourism has

Greatly increased. The upgrading of the Burr Trail scenic road will provide an important link in the Grand Circle Tour, an unparralled aray of National Parks, Recreation Areas and other scenic attractions in our area.

Support from the people of Garfield County for this project is overwhelming as evidenced at the hearings held by the National Park Service in Southern Utah last spring. We have enjoyed great support from our Congressional Delegation and both present and past Governors of the great State of Utah. The recent Legislation to set aside 1.7 million dollars by the Utah State Legislature should indicate to you that the people of Utah are united behind this project.

Tourism may be the only resource that we will be allowed to promote and develop in this area and the Burr Trail Scenic Road as outlined in Director Mott's proposal is an important part of that development process and I ask your support here today.

STATEMENT OF H. DELL LeFEVRE, CHAIRMAN, GARFIELD COUNTY COMMISSION, PANGUITCH, UT

Mr. LeFevre. Mr. Chairman, I am Del LeFevre, a rancher, and I live in Boulder, which is the starting point of the Burr Trail. I am pleased to have the opportunity to testify before you today regarding the Boulder-Bullfrog Road, which is often referred to as the Burr Trail.

First of all, I would like to impress upon you what has happened to Garfield County's economy in recent years. As many of you may know, our area is abundant with natural resources. The Kaiparowits Plateau alone contains 1.6 billion tons of coal reserves. The county has the largest tar sands deposit in the United States. Uranium deposits are plentiful, and recently the largest known deposit of carbon dioxide was discovered.

Unfortunately, development of these vast natural resources has been denied by the environmental constraints. These economic restrictions have forced us to change the emphasis of our economic direction from natural resources to tourism and recreation. The Burr Trail will provide some of these economics. We need to improve our depressed economy.

Tourism as a pattern in southern Utah which has shown that the more opportunities that offer travel through this scenic area, the more visitors are attracted to these same areas, resulting in more revenue generated. We must recognize the region benefits from this project, and its potentials to improve the entire State's tourism. The Burr Trail project will not be a shortcut route from one point to another. It will be a slow-speed scenic road, and provide additional opportunities for visitors to enjoy the grand circle.

In closing, I would like to say that the Burr Trail is an important step in the development of our economic survival of Garfield County. The spectacular scenery along this road will be available to the general traveling public while improving the local economy.

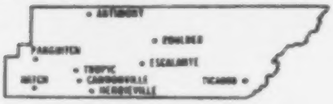
Mr. Chairman, we should be allowed to develop our last remaining resource, tourism.

Thank you.

[The prepared statement of Mr. LeFevre follows:]

COUNTY COMMISSION
H. Dell LeFevre, Chairman
Guy Thompson
Tom Hatch
Hazel Houston, Clerk

GARFIELD COUNTY



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BOULDER BULLFROG ROAD TESTIMONY

April 11 1986
~~May 20, 198~~5

Mr. Chairman, I am Commissioner Dell LeFevre from Garfield County, Utah. I am pleased to have the opportunity to testify before you today regarding the Boulder-Bullfrog Road, often referred to as the "Burr Trail".

First of all, I would like to impress upon you what has happened to the Garfield County economy in recent years. As you may know, our area abounds with natural resources. The Kaiparowits Plateau alone contains 1.6 billion tons of coal reserves. The county has the largest tar sands deposit in the United States. Uranium deposits are plentiful. And recently, the largest known deposit of carbon dioxide was discovered. Unfortunately, development of these vast natural resources has been denied because of environmental constraints. These economic restrictions have forced us to change the emphasis of our economic direction from natural resources to tourism and recreation. The Burr Trail Project will provide that economic "shot-in-the-arm" we need to improve our depressed economy.

To give you an idea of the economic status of Garfield County, I offer the following facts: The average unemployment rate from 1982 to 1984 was 10.5 percent with seasonal unemployment rising over 20 percent; the per capita income for 1980 was $4,969 compared to

$6,305 for the State of Utah: the 1980 Census showed that 9.4 percent of Garfield County families were below the poverty level compared to 7 percent for the State; there were 18.7 percent of the families below the 125 percent poverty level while the State figure was 10.6 percent. Unless there is some economic stimulus, these figures will change very little.

Mr. Chairman, paving the Burr Trail will generate at least 5 million dollars annually in revenue to the County according to the Creamer and Noble and Five County Study completed in May 1984. The long-term impact on jobs has not been estimated, but I believe it will reduce our unemployment rates by at least 50 percent. Naturally, as the number of jobs increases the whole economy benefits. Our schools can stay open and better community services such as health care can be provided to our citizens. In addition to the obvious economic benefits of the road, it will provide a vital link to Ticaboo in eastern Garfield County. Public services including law enforcement and education will be improved.

The economic benefits to all counties in the region should be stressed. The Garfield County Commission supports the economic growth of Wayne County. We believe that the Burr Trail combined with the Boulder Grover Road will expand tourism opportunities within the Grand Circle so that all counties will benefit. The Garfield County Commission takes strong exception to the statement on page 53 of the Draft Environmental Assessment that "There would be a redistribution of jobs from Wayne County" and "There would be no net change in spending in the regional economy." Tourism patterns in southern Utah have shown that the more opportunities there are for travel through very scenic areas the more visitors are attracted to these same areas resulting in more revenue generated. We must recognize the regional benefits of this project and its potential to improve the entire state's tourism. The Burr Trail project will not be a short-cut route from one point to another, it will be a low speed scenic road providing additional opportunities for visitors to enjoy the Grand Circle experience.

In closing I would like to say that the Burr Trail represents an important step in the development and economic survival of Garfield County. The spectacular scenery along this road will be available to the general traveling public while simultaneously improving the local economy.

Mr. Chairman, we should be allowed to develop our last remaining natural resource--tourism. The Burr Trail Project as described in Alternative 1A of the Draft Environmental Assessment will do just that. I urge you to adopt Alternative 1A for this vital project.

Thank you.

H. Dell LeFevre, Chairman
Garfield County Commission

Senator **Wallop**. Thank you, Mr. LeFevre.

Mr. Church.

STATEMENT OF CLEM H. CHURCH, COMMISSIONER, UTAH TRANSPORTATION COMMISSION PANGUITCH, UT

Mr. **Church**. Mr. Chairman, my name is Clem Church. I am a lifelong resident of southern Utah's Garfield County.

For 21 years I have been a member of the Utah Transportation Commission, representing the people of 11 counties of southern Utah. The Burr Trail is in my district. From my years on the Transportation Commission, I know a little of the history of the development of Glen Canyon National Recreation Area, and also of Capitol Reef National Park, and I would like to review just a little bit of that history with you for just a moment. I know that time is limited.

The residents of southern Utah feel that a commitment was made by Congress to the people of Utah for some development along the Lake Powell and Capitol Reef. During the Senate hearings to establish the recreation area, Mr. Hartzog, then Director of the National Park Service, laid out a very ambitious plan which we all agreed with. He proposed several developments along the shores of Lake Powell. These developments were all to be tied together by a highway that became known as the Trans-Escalante Highway. Mr. Hartzog went so far as to lay out a construction schedule, the estimated cost of these developments, and the year that they were to be completed.

The bill that created the Glen Canyon National Recreation Area provided for a road corridor from Bullfrog over to Glen Canyon City. The Utah Department of Transportation proposed spur roads off this scenic highway into Escalante and the Bryce Canyon area. This legislation called for a study to determine the specific route of a low-speed scenic highway through the recreation area.

During the study, pressure from the environmental groups on the National Park Service was tremendous, which in my opinion caused the National Park Service to drag their feet. At about that time the oil crisis of 1973 caused us all to rethink our plans in this area because of the tremendous cost increase.

Disappointed as we are at the failure of the Park Service to utilize the Glen Canyon National Recreation Area to its full potential, we are willing to accept compromise. Improvement of the Burr Trail would be welcome by the people of Utah. While personally I support a much more ambitious development plan than currently being considered on the Burr, I believe that Mr. Mott's proposal is agreeable to most of the people in Utah. It is time for others to accept the compromise also.

In June 1970, Mr. Jack McLellen, representing the Wasatch Mountain Club and the Sierra Club of Utah, recommended improvement of the Burr Trail. Mr. McLellen and his colleagues pointed out in numerous public meetings that the Burr Trail would, with proper development, be an ideal low-speed surfaced highway.

I believe those who are willing to support improvements then should stand by their words today. At the present time I feel the people of Utah are in agreement with this group, and should improve these existing roads as a compromise. The Utah Department of Transportation and the State of Utah has a longstanding record of working with the National Park Service, and we are ready to work with them on this project.

[The prepared statement of Mr. Church follows:]

REMARKS BY
CLEM H. CHURCH
UTAH TRANSPORTATION COMMISSION
APRIL 11, 1986

My name is Clem Church. I'm a life-long resident of southern Utah's Garfield County. For twenty-one years I have been a member of the Utah Transportation Commission representing the people in the 11 counties of southern Utah.

From my years on the Transportation Commission, I know a little of the history of the development of Capitol Reff National Park and Glen Canyon National Recreation Area. I would like to review a little of the past history for you today.

The residents of southern Utah feel that a commitment was made by Congress to the people of Utah for some development in southern Utah when the Glen Canyon National Recreation Area was established.

During Senate Hearings to establish the recreation area, Mr. Hartzog, then Director of the National Park Service, laid out a very ambitious plan which we all agreed with. He proposed several developments along the shore of Lake Powell. These developments were to be all tied together with the highway that became known as the Trans-Escalante Highway. Mr. Hartzog went so far as to lay out a construction schedule, the estimated cost of these developments and the year they were to be completed.

The bill that created the Glen Canyon National Recreation Area provided for a road corridor from ~~Moab~~ Bullfrog around the lake to Glen Canyon City. The Utah Department of Transportation proposed spur roads off this scenic highway into Escalante and the development of the Cottonwood Road into the Bryce Canyon area.

This legislation called for a study to determine the specific route of a low speed scenic highway through the Recreation Area. During the study, pressure from environmental groups on the National Park Service was tremendous, which, in my opinion, caused the National Park Service to drag their feet.

At about that time the oil crisis of 1973 caused us all to rethink the plans in this area because of the tremendous cost increases.

Disappointed as we are at the failure of the Park Service to utilize the Glen Canyon Recreation Area to its full potential, we are willing to accept compromise. Improvement of th Burr Trail would be welcome by the people of Utah.

While personally I support a much more ambitious development program than currently being considered on the Burr, I believe Mr. Mott's proposal is agreeable to most of the people in Utah.

It is time for others to accept compromise also. In June of 1970, while speaking in opposition of the Trans-Escalante Highway, Mr. Jack McLellan representing the Wasatch Mountain and Sierra Clubs of Utah recommended improving the Burr Trail. Mr. McLellen and his colleagues pointed out in numerous public meetings that the Burr Trail would, with proper development, be a ideal low speed, surfaced highway. I believe those who were willing to support improvements then should stand by their words today.

At the present time I feel the people of Utah are in agreement with this group and we should improve these existing roads as a compromise. The Utah Department of Transportation and the National Park Service have a long history of cooperation. The decision has been made on what improvements will be made. We are ready to work with the Park Service to implement those improvements.

Thank you.

Senator Wallop. Thank you, Mr. Church.

Mr. Creamer.

STATEMENT OF STEVE CREAMER, GARFIELD COUNTY ENGINEER, ST. GEORGE, UT

Mr. Creamer. Thank you, Mr. Chairman.

My name is Steve Creamer. I am the Garfield County engineer. The county commissioners have asked me to discuss just a little bit today about what the actual proposal is and what is being done to try to make the proposal as environmentally sound as possible.

In 1985, the Utah State Legislature appropriated $600,000 to complete engineering studies and engineering design from the 50 miles outside of the National Park Service limits. At this time the design on the first 30 miles is nearly complete under that contract with the State, and to tell you just a little bit about it, the chart here to your right shows a little bit about what is being proposed under Mr. Mott's proposal and what is being looked at by the State and the county at this time.

You will notice that on that chart, that 9.5 miles is what is proposed to be paved. The other 55.5 miles is proposed as a gravel road. The width of the road would be 22 feet wide, which meets the minimum Park Service standard for a rural scenic road, and is basically designed as a 20-mile-an-hour road.

For example, in the Long Canyon area, which is one of the more environmentally sensitive areas, the current design has 179 horizontal curves and 73 vertical curves within this 7-mile stretch of the road, so you can see it is not being designed as any superhighway, but is a very slow, scenic road which people can enjoy traveling on and enjoy the scenery throughout the area.

Thank you.

Senator Wallop. Thank you, Mr. Creamer.

Mr. Wallentine.

STATEMENT OF C. BOOTH WALLENTINE, EXECUTIVE VICE PRESIDENT, UTAH FARM BUREAU FEDERATION, SALT LAKE CITY, UT

Mr. Wallentine. Thank you, Mr. Chairman.

My name is Booth Wallentine. I am executive vice president of the Utah Farm Bureau Federation, an organization representing approximately 20,000 families in the State of Utah.

I have a statement for the record, but may I just capsulize my statement, Mr. Chairman, by saying that we need the Burr Trail upgraded to assure continued transport of livestock through the Capitol Reef National Park and Glen Canyon National Recreation Areas. Current law guarantees that access.

Second, our farm and ranch people of that area need job opportunities. They have been denied many job opportunities by environmental restrictions in those areas. This will enhance tourism to upgrade the Burr Trail. We urge you to adopt this legislation, and with that, I will conclude my statement.

Thank you.

[The prepared statement of Mr. Wallentine follows:]

STATEMENT IN SUPPORT OF S. 2265

BY C. BOOTH WALLENTINE

UTAH FARM BUREAU FEDERATION

Mr. Chairman, my name is C. Booth Wallentine. I am Executive Vice President of the Utah Farm Bureau Federation, an organization representing 20,000 families in the state of Utah.

Farmers and ranchers in Utah, as in the rest of the nation, are undergoing severe economic stress. The farm people of southeastern Utah have been particularly hard hit because their livelihood is almost entirely dependent upon livestock production, whereas some farmers and ranchers in other parts of the state have had some opportunities to take part-time jobs to help sustain them during these tough times.

The Utah Farm Bureau strongly supports the provisions of this legislation which protects and sustains the ability of farmers and ranchers to transport their livestock through Capitol Reef National Park and the Glen Canyon National Recreation Area. The 1971 and 1972 Acts which established these segments of the National Park System provided specific protection for livestock grazing and stock trailing. The Burr Trail has been used as a livestock trail since the late 1800's when it was first constructed by the Mormon pioneers. The ability to continue this practice is of paramount importance to livestock operators in Garfield county.

May I make one other point, Mr. Chairman. Farmers and ranchers are citizens first, farmers second. They have the same concerns about the economy or the environment that any other group has. Farm Bureau people are deeply concerned about the growing number of environmental restrictions placed on development of the resources of southern Utah.

Our people have been denied the job opportunities that would have come from the Kaiparowits plateau energy development, the Salt Wash site for the Intermountain Power Project, one of the nation's largest, the Warner Valley power project, the Alton coal fields, and many others. Simply put, Mr. Chairman, these restrictions have sharply reduced the opportunity for many southern Utahns to enjoy the standard of living enjoyed buy many others. While the upgrading of the Burr Trail will not lead to massive economic development, it will enhance tourism. We need to do that. We urge the adoption of S. 2265.

Thank you for the opportunity to give you the farmer-rancher viewpoint on this vital issue.

Senator WALLOP. Ms. Liston.

STATEMENT OF LOUISE LISTON, ESCALANTE, UT

Ms. LISTON. Thank you.

My name is Louise Liston, Mr. Chairman. I am a rancher's wife, teacher, and concerned citizen of Escalante, UT, and just for the record, I am proud to be from a place that is considered remote in a county that is considered economically depressed.

You have not heard too much complaint from us when they cut our grazing privileges almost in half and increased Government staffing in our area from 4 to 90, paid by tax money. We have seen enrollment in our schools dropping each year with no promise of future industries to help us because of environmental restrictions impressed upon us.

We have not expected any help. That would be unrealistic to our way of living. But we are getting tired of being denied our rights to pursue a way of living that took four generations to build. The environmental impact study of our area listed the names of four species of plant and animal life that would be endangered should the Burr Trail road be paved.

I would like to suggest that we add another endangered species to that list if the Burr Trail road does not go through: our children here in the remote areas of southern Utah. They are slowly being subject to environmental restrictions that threaten their survival. I feel they are far more important than some endangered mugliwomp that we have never heard of or much less seen.

Only a few years ago the State highway commission wanted to make a very dangerous part of the road between Boulder and Escalante safer for a schoolbus to travel daily, and who tried to stop them? You are right. The same groups that are trying to stop the paving and improvements of the Burr Trail. Their reason: A cut had to be made through a formation of sandstone that would mar the natural beauty. No thought was given to the safety of those young people traveling that dangerous road twice a day. No thought was given to the fact that there were 30 more miles of that same sandstone formation for people to enjoy.

I was asked to write a petition at that time which the local citizens of Boulder and Escalante circulated. A study was made by the State highway commission and the road was built through the cut. We felt like we had a right to try to control the safety of our children, and we feel like we have a right to give our opinion on anything that will have an impact on our future in Garfield County. The Burr Trail road will do just that. It will bring tourism into our midst. It will alleviate much of the unemployment found in our county. It may even help to raise the enrollment in our schools.

We may be a little old fashioned, but we still believe that men were created equal, and that just because some people have money and the power that seems to go with it, they have no right to inflict their beliefs and desires on others against their will and detrimental to their livelihood.

Their objections seem so unrealistic, so selfish and unjustifiable. There is enough beauty in southern Utah for everyone to enjoy. Let us share it with others for the benefit of all, not wrap it up in a neat little package for just a few to see once or twice a year.

It has been mentioned in previous hearings that parks degenerate with use. I would like to throw this in. My husband is a cattleman, and he just recently gathered his cattle from the Escalante River country, used almost entirely by environmental and wilderness society members, and believe it or not, it is markedly degenerating from their use. Littering, defacing of precious petroglyphs, a hideaway for drugs, and if I may discretely say it, sex, are but a few of the things he saw.

There is another point I would like to make, a last one. When the road around the east end of Boulder Mountain was started, some of those very people who opposed it so strongly were the first in line with their hands out for jobs, acing out many of our local men badly in need of work. I wish to go on record as supporting Director Mott's proposal to pave the Burr Trail, giving economically depressed areas in southern Utah the lift they need to survive.

Thank you.

[The prepared statement of Ms. Liston follows:]

STATEMENT BY
LOUISE LISTON
ESCALANTE, UTAH
S. 2265

April 11, 1986

My name is Louise Liston. I am a rancher's wife, teacher, and concerned citizen from Escalante, Utah. And just for the record, I'm proud to be from a place that is considered remote in a county that is considered economically depressed. For thirty-three years my husband and I have struggled to maintain a livelihood for ourselves and our children in that area. We love it there, as did our ancestors, who also struggled, but against different odds. They battled the elements and isolation, along with crude living conditions. Today we are still battling against the elements and isolation, but added to these are environmentalists and government restrictions. You haven't heard us complain too much when they cut our grazing privileges almost in half and increased government staffing in our area from four to ninety (paid for by our tax money). We've seen enrollment in our schools dropping each year with no promise of future industries to help us because of environmental restrictions imposed upon us.

We haven't expected any help, that would be unrealistic to our way of life, but we are getting tired of being denied our rights to pursue a way of living that took four generations to build. The Environmental Impact Study of our area listed the names of four species of plant and animal life that would be endangered should the Burr Trail Road be paved. I would like to suggest that we add another endangered species to that list if the Burr Trail road does not go through - our children here in the remote areas of Southern Utah. They are slowly being subject to environmental restrictions that threaten their survival. I feel they are far more important that some endangered "mugli-womp" that we've never heard of, much less seen.

Only a few years ago the State Highway Commission wanted to make a very dangerous part of the road between Boulder and Escalante safer for a school bus to travel daily, and who tried to stop them? You're right! The same groups that are trying to stop the paving and improvements of the Burr Trail. Their reason? A cut had to be made through a formation of sandstone that would mar the natural beauty. No thought was given to the safety of those young people traveling that dangerous road twice a day. No thought was given to the fact that there was 30 miles more of that same sandstone formation for people to enjoy. I was asked to write a petition at that time which the local citizens of Boulder and Escalante circulated. A study was made by the State Highway Commission and the road was built through the cut. We felt like we had a right to try to control the safety of our children. And we feel like we have a right to give our opinion on anything that will have an impact on our future in Garfield

County. The Burr Trail Road will do just that. It will bring tourism into our midst. It will alleviate much of the unemployment found in our county. It may even help raise the enrollment in our schools. We may be a little old fashioned, but we still believe that "men were created equal", and that just because some people have money and the power that seems to go with it, they have no right to inflict their beliefs and desires on others against their will and detrimental to their livelihood. Their objections seem so unrealistic, so selfish and unjustifiable. There's enough beauty in Southern Utah for everyone to enjoy. Let's share it with others for the benefit of all, not wrap it up in a neat little package for just a few to see once or twice a year.

It has been mentioned in previous hearings that parks degenerate with use. I would like to testify that my husband just recently gathered cattle from the Escalante River country - used almost entirely by environmental and wilderness society members, and believe it or not it is markedly degenerating from their use. Littering, defacing of precious petroglyphs, a hideaway for drugs and if I may discreetly say it, sex, are but a few of the things he saw.

There's another point I'd like to make which has been experienced by our area. When the road around the east end of Boulder Mountain was started, some of those very people who opposed it so strongly were the first in line with their hands out for jobs, acing out many local men badly in need of work.

I wish to go on record as supporting Director Mott's proposal to pave the Burr Trail which would adequately serve as an all weather road linking our national park system together, giving economically depressed areas in Southern Utah the lift they need to survive.

Thank you.

Senator WALLOP. Thank you, Ms. Liston.

Mr. Church, let me just ask one question here. Is it not true that you have the right to build that road now?

Mr. CHURCH. Yes, sir. The county has a right to build the road.

Senator WALLOP. Even including changing some of its present route and other things?

Mr. CHURCH. That is to the park boundary.

Senator WALLOP. So one of the things that is at issue here is really just this cooperative relationship. In point of fact, you could do it to a great extent on your own without this cooperative relationship.

Mr. CHURCH. That is correct, but we feel that if——

Senator WALLOP. I understand what you feel. I am just trying to establish something for the record here, that it is possible that with the cooperative and willing State that much of what is sought here cooperatively could be done unilaterally. Is that correct?

Mr. CHURCH. That is right.

Senator WALLOP. Thank you all very much. I appreciate your being here.

Well, there is another vote. No; it is not. I will call the next panel up on S. 2265, Ms. Del Smith of Springdale, Mr. Clive Kincaid of Springdale, Mr. Dale Dockstader of Rockville, Ms. Kris Dangerfield of Springdale, Ms. Cristine Swanson of Boulder, Mr. Clay Puckett of Orem, and Mr. Thomas J. Messenger, of Arlington, VA.

Del Smith.

Ms. SMITH. Mr. Chairman, for the convenience of our panel, we would like to speak in this way if there would not be any objection at this time.

Senator WALLOP. Then you would start down here? Is that what you are suggesting?

Ms. SMITH. Yes, please. Thank you.

Senator WALLOP. Then identify yourself for the reporter.

STATEMENT OF CLIVE KINCAID, BOULDER, UT

Mr. KINCAID. Thank you, Mr. Chairman.

My name is Clive Kincaid, and just for the record, I want to clarify that I am from Boulder, UT, not Springdale.

For better than 2 years now I have been building a stone and log house near Boulder and near the Burr Trail. Half of each year I drive this road daily, and I know it very, very well.

The Burr Trail is a wide and reliable dirt road. It is maintained by a heavy road grader by Garfield County on a routine basis throughout the year. As Senator Hatch has noted in his remarks today, the Burr Trail has already been vastly improved, and a large part of it is a gravel road.

The 66-mile-long road safely traverses some of the wildest untrampeled landscape in North America, over 1 million acres of spectacular slick rock canyons and painted deserts adjoin the road. Visitors and recreationists by the thousands travel from hundreds of miles each year to specifically enjoy the unique opportunity of driving across such a scenic dirt road. I have personally talked with hundreds of these appreciative people from more than 20 nations, all of them remarking at the thrill of traveling the Burr Trail as it is.

And there is a reason for that. A drive down the Burr Trail is rich in an experience that is fast vanishing. There is a nostalgic desire for adventure in our people, for a little dust on the windshield. While the present road can be driven from end to end in less than 3 hours, one can also spend days or weeks exploring the region's byways.

In answer to Senator Garn, since 1972, when the Trans-Escalante Highway was at issue, the Burr Trail has been repeatedly improved and upgraded, and in addition over 100 miles of new paved highway have been constructed at a cost of over $50 million and have already completed the much touted grand circle. This highway route has linked all national parks in Utah on major paved roads.

I do not believe we should underestimate the value and importance this Nation places on such a sense of freedom as the Burr Trail provides, preserving a dirt road that seems innately yet uniquely in the American character that Congress should consider what it truly wishes to accomplish with this legislation, but then it should do so cleanly. If there is somewhere a singular resource that merits protection and preservation, as Senate bill 2265 would have us believe, then protect and preserve that resource meaningfully, and for the entire American public.

On the other hand, if our needs and intentions are truly otherwise, to aid a troubled rural economy, then let that be stated forthrightly, but let's not traffic in our national heritage lightly, bartering it inadvertently in our haste to do good. There must be a better way.

I urge you to not needlessly overdevelop this road. Failing that, we are faced with a creation that no one would claim, a park that is not a park, and a road that is not a road, and all of that with precious dollars that we cannot today afford.

Instead, there can be a safe and reliable travel experience on the Burr Trail easily accessible to a majority of the mildly curious public, and it can be, as it has been, a simple, well-maintained dirt road, enjoyed and appreciated by thousands each year. I am certain that that is what most Utahns truly want for their children in the future.

Thank you.

[The prepared statement of Mr. Kincaid follows:]

STATEMENT ON S.B. 2265
SUBMITTED TO THE SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND NATURAL RESOURCE CONSERVATION
OF THE
ENERGY AND NATURAL RESOURCES COMMITTEE,
UNITED STATES SENATE

Submitted by:

Clive Kincaid
Box 335
Boulder, Utah 84767

Mr. Chairman,

My name is Clive Kincaid. For better than 2 years now I have been building a stone and log house near Boulder, Utah, and near the Burr Trail. Half of each year I drive this road daily and know it well.

The Burr Trail is a wide and reliable dirt road. It is maintained by a heavy road-grader by Garfield County on a routine basis throughout the year. The 66-mile long road safely traverses some of the wildest untrammelled landscape in North America. Over one million acres of spectacular slickrock canyons and painted deserts adjoin this road, including internationally acclaimed landmarks such as the Waterpocket Fold in Capitol Reef National Park and the Canyons of the Escalante.

Visitors and recreationists by the thousands travel from hundreds of miles each year specifically to enjoy the unique opportunity of driving across such a scenic dirt road. I have personally talked with hundreds of those appreciative people, and from more than 20 nations, all of them remarking at the thrill of traveling the Burr Trail.

And there is a reason for that. A drive down the Burr Trail today is rich in an experience that is fast vanishing.

There is a nostalgic desire for adventure in our people; for a little dust on the windshield.

While the present road can be driven from end-to-end in less than 3 hours, one can also spend days or weeks exploring the regions byways.

But never once, anywhere, in any direction, at any point while driving the Burr Trail, will the present visitor witness the whine or glare of the modern era. Except for the hum of one's own vehicle or the occasional passing dust cloud of another, there is none: two cattle guards, a handful of short wooden signs, an uprooted culvert...and that is all. No lights, no businesses, no human habitation; no traffic, no distractions, and no pavement, Nothing. Here is another Utah --- as close to time warp as one can find. Nothing but wild canyons, scenic grandeur, and you.

The experience excites memories of once traveling to Lee's or Hite's Ferry...or to Glen Canyon...when setting out for the desert was a true adventure; when the destination was barely charted frontier. Our old images conjure up a Willys Jeep, gas cans lashed to its sides, waterbags on the radiator, and khaki-clad tourists holding box cameras in front of endless redrock panoramas.

Change the superficial particulars and that is still the Burr Trail today.

I do not believe we should underestimate the value and importance this nation places on such a sense of freedom. Preserving a dirt road seems innately yet uniquely in the American character.

The Congress should consider what it truely wishes to accomplish with this legislation....but then do it cleanly. If there is somewhere a singular resource that merits protection and preservation, as Senate Bill 2265 would have us believe, then protect and preserve that resource meaningfully and for the entire American public. On the other hand, if our needs and intentions are truly otherwise, to aid a troubled rural economy, then let it be stated forthrightly. But lets not traffic in our national heritage lightly...bartering it inadvertently in our haste to do good. There are better ways.

I urge you not to needlessly develop this road, Failing that, we are faced with a birth no parent would claim: a park that is not a park, and a road that is not a road.

Instead there can be a safe and reliable travel experiences on the Burr Trail, easily accessible to a majority of the mildly curious public. And it can be as it has been, a simple well-maintained dirt road....enjoyed and appreciated by thousands each year...a dirt road that guarantees dust on the windshield forever.

I believe that is what most Utahn's truly want for their children and the future.

STATEMENT OF KRIS DANGERFIELD, SPRINGDALE, UT

Ms. **Dangerfield**. Mr. Chairman, my name is Kris Dangerfield. I am a native of Utah.

My family has always enjoyed exploring the back roads of Utah and camping in the primitive and beautiful areas offered in the State. I made my first trip down the Burr Trail when I was 8 years old on one of these family outings. I remember being mesmerized by the panoramic view of the desert as seen from the top of the switchbacks.

On this and subsequent trips, there grew in me a love for the high desert country, so much so that I decided to make it my home, and moved to southern Utah several years ago. I now live in Springdale.

Since that time, I have made numerous trips down the Burr Trail and into the Waterpocket Fold. The last time I was there was 2 weeks ago. When I make these excursions on the Burr Trail, I make them with one purpose in mind, to seek solace and solitude, to remove myself from man and all of his technology, radio, television, stop signs, billboards, and paved roads. When I need solace and solitude, I do not expect to find it off the side of a paved road. When I go into the back country, I do not expect it to be easy.

The words "back country" implies a lack of luxuries and visible signs of man and his machinery, and that is what draws me back to the Burr Trail time after time. The proposed 10 miles of paving on the Burr Trail cannot be done without forever scarring the surrounding beauty. It would be impossible to pave the switchbacks without making major cuts in the mountainside and drastically altering the existing roadway.

Paving any or all of the Burr Trail would also alter and severely detract from the experience I seek and need when I go into this desert.

Mr. Chairman, paving the Burr Trail is completely unnecessary. I have traveled that road in everything from a Lincoln Continental to a Ford Bronco, and let me add that I have never had to use four-wheel drive. Several of my friends have traveled the road on motorcycles. Paving portions of the Burr Trail cannot make an already safe and satisfactory road more accessible for any standard size vehicle.

Paving portions of the road to make it an all-weather, year-around road is not a valid argument. We are speaking of a desert road here, with very little rainfall, perhaps 6 inches a year. The days that it is impassible are not more than 10. It seems to me that one must use common sense before venturing off the highway and into a place dominated by Mother Nature. One does not go sailing on stormy seas.

Financially speaking, it makes no sense to spend money on paving a road that is already safe and satisfactory, especially in light of the Gramm-Rudman cuts.

For these reasons, I strongly oppose paving any part of the Burr Trail or existing roads in the Escalante Canyon or Waterpocket Fold area.

In conclusion, I would like to say that by its very nature, a unique place like the Burr Trail cannot be all things to all people. Please, let us not make this just another roadside attraction.

Thank you.

[The prepared statement of Ms. Dangerfield follows:]

STATEMENT ON S.B. 2265
SUBMITTED TO THE SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND NATURAL RESOURCE CONSERVATION OF THE ENERGY AND NATURAL RESOURCES COMMITTEE, UNITED STATES SENATE

Submitted by:
Kris Dangerfield
P. O. Box 371
Springdale, Utah 84767

April 11, 1986

Mr. Chairman, my name is Kris Dangerfield. I am a native of Utah. My family has always enjoyed exploring the back roads of Utah and camping in the primitive and beautiful areas offered in the state.

I made my first trip down the Burr Trail when I was eight years old on one of these family outings. I remember being mesmerized by the panoramic view of the desert as seen from the top of the switchbacks. On this and subsequent trips, there grew in me a love for the high desert country, so much so that I decided to make it my home and moved to southern Utah several years ago. I now live in Springdale.

Since that time I have made numerous trips down the Burr Trail and into the Waterpocket Fold. The last time I was there was two weeks ago.

When I make these excursions on the Burr Trail, I make them with one purpose in mind--to seek solace and solitude. To remove myself from man and all of his technology; radio, television, computers, stop lights, stop signs, billboards and paved roads. When I need solace and solitude I don't expect to find it off the side of a paved road. When I go into the backcountry I don't expect it to be easy. The word backcountry implies a lack of luxuries and visible signs of man and his machinery and that is what draws me back to the Burr Trail time after time.

The proposed ten miles of paving on the Burr Trail cannot be done without forever scarring the surrounding beauty. It would be impossible to pave the switchbacks without making major cuts in the mountainside and drastically altering the existing roadway. Paving any or all of the Burr Trail would also alter and severely detract from the experience I seek and need when I go into this desert.

Mr. Chairman, paving the Burr Trail is completely unnecessary. I have traveled that road in everything from a Lincoln Continental to a

Ford Bronco, and let me add that I didn't have to use 4-wheel drive on any part of it. Several of my friends have traveled the road on motorcycles. Paving portions of the Burr Trail cannot make an already satisfactory road more accessible for any standard-size vehicle. Paving portions of the road to make it an all-weather, year-round road is not a valid argument.

We're speaking of a desert road here, with very little rainfall (perhaps six inches a year). The days it is impassable are not more than ten. It seems to me that one must use common sense before venturing off the highway and into a place dominated by Mother Nature. One doesn't go sailing on stormy seas. If the forecast says rain, I don't go.

Financially speaking, it makes no sense to spend money on paving a road that is already satisfactory, especially in light of the Graham-Rudman cuts.

For the reasons stated below I strongly oppose paving any part of the Burr Trail or any existing roads in the Escalante Canyon or Waterpocket Fold area:

1. Paving will detract from the solace and solitude I seek in the area,

2. It is completely unnecessary as the road is accessible to any car or truck and impassable only a few days a year, and

3. It's a waste of money that could be better spent elsewhere, for instance, on keeping Utah's existing national parks open and fully staffed for the public's enjoyment.

In conclusion, I would like to say that, by its very nature, a unique place like the Burr Trail cannot be all things to all people. Let's not make this just another roadside attraction.

STATEMENT OF DALE DOCKSTADER, ROCKVILLE, VT

Mr. DOCKSTADER. Mr. Chairman, I am Dale Dockstader from Rockville, UT. My profession is real estate broker.

It is tourism that brings people to my place of business. It is with great pleasure that I hope to describe to you my beloved homeland, southern Utah. I am a native Utahn, having lived all of my life in Utah, 30 years in southern Utah. In this brief statement, I can only hope you will sense the much deeper feeling I would hope to give to you.

The wild and pristine lands of Utah belong to all Americans, not just those of us fortunate enough to live there. Do not think of Utah's parks and wilderness lands as the domain of the few. It is yours, mine, and all. It is my home, and I love it deeply. The infinite beauty is indeed sublime. I invite any of you to come. I will be your guide.

This hearing today is on the Burr Trail. Many times I have traveled this most interesting passage through the heart of Utah's many canyonlands. The road is very adequate for the few travelers passing over it. Those who wish to pave this road have a very narrow understanding of just what they propose.

The economic impact of diverting tourists away from Capitol Reef National Park would be very negative for the citizens of Tory, UT, and adjacent communities. Many folks there have invested a great deal to provide necessary services. Travel in this region of Utah is already low, and diverting part of this tourist traffic through the Burr Trail would have a very negative impact upon their local economy.

Most visitors are new to the area, and they should enjoy the best available in the time limitations they have, and the Capitol Reef, Burr Trail, Escalante canyons region, the most scenic route is from Escalante to Tory over the newly paved Boulder Mountain Highway.

The entire trip on this route is very beautiful. While Long Canyon and other areas on the Burr Trail are scenic, there are areas with limited visibility. Given a choice for the average tourist, the existing paved highway actually offers more scenery.

For those who then choose to see more of Utah in this region, a return trip along the Burr Trail as it is can be done in a passenger car. I have done it many times, and most of the few vehicles I have passed along the Burr Trail were family cars or campers.

As it now is, anyone and everyone wishing to see the Burr Trail can. The Burr Trail is not a heavily used road, and never will be. There are so many national parks, State parks, and wilderness areas now accessible by paved road, it is extremely unlikely that traffic along the Burr Trail will increase enough to justify the huge expense of major improvements.

The funds for roads should be used in higher traffic areas where improvements are necessary. If paving the Burr Trail were truly beneficial to the tourist experience and the local economy, with no negative environmental impact, I would support such action, but paving or major improvements will accomplish none of these.

If we Utahns provide the necessary services, the economy of Escalante and Boulder will increase dramatically with the tourism industry geared to the existing highways and National parks.

Last, it is not true that the proposed paving of the Burr Trail is opposed only by nonresident backpackers. Many friends of mine feel as I do, Utah residents, business and professional folks. They want the singular experience of driving this Utah dirt road preserved. It belongs to all Utahns and all Americans, and it is an irreplaceable resource that I want saved for my children.

Thank you.

[The prepared statement of Mr. Dockstader follows:]

STATEMENT ON S.B. 2265

SUBMITTED TO THE SUBCOMMITTEE ON PUBLIC LANDS,
RESERVED WATER AND NATURAL RESOURCE CONSERVATION
OF THE
ENERGY AND NATURAL RESOURCES COMMITTEE,
UNITED STATES SENATE

Submitted by:
Dale Dockstader
P.O. Box 1033
Rockville, Utah 84763
April 11, 1986

Mr. Chairman, I am Dale Dockstader from Rockville, Utah. My profession is a real estate broker. It is tourism that brings people to my place of business. It is with great pleasure that I hope to describe for you my beloved homeland, Southern Utah. I am a native Utahn having lived all of my life in Utah, 30 years in Southern Utah. In this brief statement I can only hope you will sense the much deeper feeling I would hope to give you. The wild and pristine lands of Utah belong to all Americans not just those of us fortunate to live therein. Do not think of Utah's parks and wilderness lands as the domain of the few, it is yours, mine and all. It is my home and I love it deeply. The infinite beauty is indeed sublime. I invite any of you to come, I will be your guide.

This hearing today is on the Burr Trail. Many times I have traveled this most interesting passage through the heart of Utah's many canyon lands. The road is very adequate for the few travelers passing over. Those who wish to pave this road have a very narrow understanding of just what they propose.

The economic impact of diverting tourists away from Capitol Reef National Park would be very negative for the citizens of Torrey, Utah and adjacent communities. Many folks there have invested a great deal to provide necessary services. Travel in this region of Utah is already low and diverting part of this tourist traffic through the Burr Trail would have a very negative impact upon their local economy.

Most visitors are new to the area and they should enjoy the best available in the time limitations they have. In the Capitol Reef, Burr Trail, Escalante Canyons Region, the most scenic route is from Escalante to Torrey over the newly paved Boulder Mountain Highway. The entire trip on this route is very beautiful. While long canyon and other areas on the Burr Trail are scenic. There are areas with limited visibility. Given a choice for the average tourist the existing paved highway actually offers more scenery.

For those who then choose to see more of Utah in this region a return trip along the Burr Trail as it is, can be done in a passenger car. I've done it many times and most of the few vehicles I passed along the Burr Trail were family cars or campers. As it now is anyone and everyone wishing to see the Burr Trail can.

The Burr Trail is not a heavily used road and never will be. There are so many national parks, state parks and wilderness areas now accessible by paved road it is extremely unlikely that traffic along the Burr Trail will increase enough to justify the huge expense of major improvements. The funds for roads should be used in higher traffic areas where improvements are necessary.

If paving the Burr Trail were truly beneficial to the tourist experience and the local economy with no negative environmental impact I would support such action. But paving or major improvements will accomplish none of these. If we Utahns provide the necessary services the economy of Escalante and

Boulder will increase dramatically with a clean tourism industry geared to the existing highways and national parks.

Lastly, it is not true that the proposed paving of the Burr Trail is opposed only by non-resident backpackers. Many friends of mine feel as I do, Utah residents, business and professional folks. They want singular experience of driving this Utah "dirt" road preserved. It belongs to all Utahns and is an irreplaceable resource I want to save for my children.

STATEMENT OF CLAY PUCKETT, OREM, UT

Mr. **Puckett**. Mr. Chairman, my name is Clay Puckett. I live and work in Provo, UT. My interest in the back country is primarily regarding human values. Man longs for adventure, and always has turned to nature to refresh, to heal, or to challenge himself. The vagaries of modern living demand increased opportunities for recreation of this sort. The Burr Trail and its environs provide such an opportunity.

I have worked for 20 years for the State of Utah as a vocational rehabilitation counselor. I work with emotionally handicapped people, guiding and motivating them to increase their social and vocational function. The key to my effectiveness is an ability to inspire my clients to try again, to believe in their ability to succeed when they have already been proven to be losers at life.

My ability to carry off this task is limited by the setting in which I work. So where do I take them? Down the Burr Trail. Their harmonious contact with quiet nature here dramatically increases my ability to effect those psychological changes necessary to the rehabilitation processes.

I have personally led hundreds of people of all types, conditions, and persuasions through the Burr Trail and surrounding canyons and mountains to benefit from the immense solitude and uninterrupted vistas.

To facilitate the healing effects of nature, we need this vast reach of open country uninterrupted by paved roads. Such vast areas of unfettered countryside are being rapidly eroded. Few remain intact and unspoiled. Modern society, with our offroad vehicles, extractive industries, and increased demand for outdoor recreational activities have created a crushing demand on this fragile desert environment, but the Burr Trail is still special, and should be protected.

I have met people from around the world who have come just to drive this dirt road because it is not paved, and which leads to prime vast back country. I have taken prisoners, mental patients, addicts, dignitaries, and just plain folk into the lost reaches along this road. All these people have enjoyed the hauntingly unique qualities of this attractive, desolate corner of the world.

Rather than waste money on unnecessary improvements to the road, let us instead upgrade the quality of BLM and Park Service ranger and guide services for those people of Utah and the rest of the Nation who wish to use it for back country recreational, educational, and therapeutic processes.

Paving the Burr Trail would diminish the value of back country experience, and the result would be to pave the way instead for destruction of its uniqueness as a magnificent resource to the Nation.

Thank you.

[The prepared statement of Mr. Puckett follows:]

STATEMENT ON S.B. 2265
SUBMITTED TO THE SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND NATURAL RESOURCE CONSERVATION
OF THE
ENERGY AND NATURAL RESOURCES COMMITTEE, UNITED STATES SENATE

Submitted by:
Clay Puckett
1025 E. 400 N.
Orem, Utah 84057

Mr. Chairman, my interest in the backcountry is primarily regarding human values. Man longs for adventure and always has turned to nature for opportunity to refresh, to heal and/or challenge himself. The vagaries of modern living demand increased opportunities for recreation of this sort. The Burr Trail and its environs provide such an opportunity.

I have worked for twenty years for the State of Utah as a vocational rehabilitation counselor. I work with emotionally handicapped people, guiding and motivating them to increase their social and vocational function. The key to my effectiveness is an ability to inspire my clients to try again to believe in their ability to succeed, when they have been proven to be losers at life. My ability to carry off this task is limited by the setting in which I work. And where do I take them? Down the Burr Trail! Their harmonious contact with quiet nature here dramatically increases my ability to effect those psychological changes necessary to the rehabilitation process.

I have personally led hundreds of people of all types, conditions and persuasions through the Burr Trail and surrounding canyons and mountains, to benefit from the immense solitude and uninterrupted vistas.

To facilitate the healing effects of nature, we need this vast reach of open country, uninterrupted by paved roads. Such a vast area of unfettered countryside is being rapidly eroded. Modern society with our off-road vehicles, extractive industries, and increased demand for outdoor recreational activities have created a crushing demand on their fragile desert environment. But the Burr Trail is still special and should be protected.

In addition to my work with young adult problem people, I know others who drive the Burr Trail just to "get away from it all". I meet backpackers seeking the solitude of the deep-walled sandstone canyons of the Escalante River and its tributaries. I have found young and old; campers, rock-hounds and jeepers. I have met people from around the world who have come just to drive this dirt road, because it is not paved.

I have taken prisoners, mental patients, addicts, dignitaries and just plain folks into the lost reaches along this road. All these people have experienced the hauntingly unique qualities of this attractive corner of the world. They leave with a memory of Utah to match their dreams of high adventure and satisfying peace with self and with nature.

Rather than waste money on unnecessary improvements to the road, let's instead upgrade the quality of BLM and Park Service rangers and guide services for those people of Utah and the rest of the nation who wish to use it for back country, recreational, educational and therapeutic purposes.

Paving the Burr Trail would diminish the value of the back-country experience, and the result would be to pave the way instead for destruction of its uniqueness as a magnificent resource to the nation.

Senator WALLOP. Time for one more before I go. I have another vote.

STATEMENT OF CHRISTINE SWANSON, BOULDER, UT

Ms. SWANSON. Thank you, Mr. Chairman, for the chance to participate in this great American process.

I am Chris Swanson, a long-time resident of Salt Lake City, UT. I own property 1½ miles from the Burr Trail in Boulder, UT. I am saving what I can of my schoolteacher's salary in order to build a home and eventually move to Boulder. I speak also for my son and his family, who plan to move a computer consulting business to Boulder.

We are committed to the welfare of this community of about 100 people. We believe that Senate bill 2265 will degrade the unique values and beautiful canyon country.

Contrary to other reports, the majority of Utahns are opposed to this fiscally wasteful and destructive project. A recent poll by the State's major newspaper and television station indicates that 53 percent of the people statewide do not support paving. In fact, in some of the northern Utah population centers opposition is as high as 70 percent.

Editorials in the State's three major metropolitan newspapers have questioned the wisdom of spending limited resources on an unnecessary road project. I want to submit the poll and editorials for the record of this meeting, if I may, please.*

Some residents of Utah, especially those in positions of power, influence, and affluence, believe that roadbuilding jobs supported by the Federal Government will resolve the economic depression plaguing rural Utah. Those of us who disagree are subject to social and economic pressure to climb on the pavement bandwagon. Certainly there must be better ways to assist local economies.

We now have a major paved year-around through highway leading from the visitor center of Bryce Canyon National Park on the west to the visitor center of Capitol Reef National Park to the north and east. The Boulder Mountain Highway serves our transportation needs. The Burr Trail road as it is attracts the kinds of tourists who will stop and spend their vacation money in our small cafe, on horseback trips, and Jeep excursions.

Making the road passable by large trucks and trailers and buses makes it less attractive to a family on a western travel vacation, or to foreign tourists who come seeking our unspoiled splendors. The more the road is developed, the more quickly travelers pass through our small towns, rushing to big corporate resorts.

Mr. Chairman, I want to emphasize that the majority of people in Utah want to preserve the unique qualities of this scenic, rural dirt road for all Americans.

Thank you.

[The prepared statement of Ms. Swanson follows:]

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*Retained in subcommittee files.

STATEMENT ON S.B. 2265
SUBMITTED TO THE SUBCOMMITTEE ON PUBLIC LANDS,
RESERVED WATER AND NATURAL RESOURCE CONSERVATION
OF THE
ENERGY AND NATURAL RESOURCES COMMITTEE,
UNITED STATES SENATE

Submitted by:
Christine Swanson
P.O. Box 385
Boulder, Utah 84716

Mr. Chariman, I am Chris Swanson, a long-time resident of Salt Lake City Utah. I own property one and one half miles from the Burr Trail in Boulder, Utah. I am saving what I can of my school teacher's salary in order to build a home and eventually move to Boulder. I speak also for my son and his family who plan to move a computer consulting business to Boulder. We are committed to the welfare of this community of 92 people. We believe that Senate Bill 2265 will degrade unique values and beautiful canyon country.

Contrary to other reports, a majority of Utahns are opposed to this fiscally wasteful and destructive project. A recent poll by the states' major newspaper and television station indicates that 53 percent of people statewide do not support paving. In fact, in some northern Utah population centers the opposition is as high as 70%. Editorials in the state's three major metropolitan newspapers have questioned the wisdom of spending limited resources on an unnecessary road project. I want to submit the poll and editorials for the record of this hearing.

Some residents of Southern Utah, especially those in positions of power, influence, and affluence believe that road-building jobs, supported by the federal government, will resolve the economic depression plaguing rural Utah. Those of us who disagree are subject to social and economic pressure to climb on the pavement bandwagon. Certainly there must be better ways to assist local economies.

We now have a major, paved, year-round through highway leading from the visitor center of Bryce Canyon National Park on the west toward the visitor center of Capitol Reef National Park to the north and east. The Boulder Mountain Highway serves our transportation needs. The Burr Trail road as it is attracts the kinds of tourists who will stop and spend their vacation money in our small cafe, on horse-pack trips and jeep excursions.

Making the road passable by large trucks and trailers and busses makes it less attractive to a family on a western travel vacation or to foreign tourists who come seeking our unspoiled wonders. The more the road is developed the more quickly travelers pass through our small towns, rushing to corporate-owned resorts.

Mr. Chairman, I want to emphasize that the majority of people in this state want to preserve the unique qualities of this scenic rural dirt road.

Senator WALLOP. Thank you, Ms. Swanson. I am going to leave now and go into a recess. We will hear the last two when I come back. Let me make an observation. Sitting up here, it is a very strange sound coming from down there. Some saying it is not worth spending the money on it because nobody will use it, and the rest of you are saying that it is worth spending the money on it because everybody will use it. It is just a curiosity. It is hard to determine which might be right.

[Recess taken.]

Senator WALLOP. The subcommittee will return to order. I recall there are two left.

STATEMENT OF THOMAS J. MESSENGER, ARLINGTON, VA

Mr. MESSENGER. My name is Thomas Messenger, and I live in Arlington, VA.

I am a great admirer of the beauties of the Colorado Plateau, where I often go. I have twice driven down the Notom Road from Utah 24 to the Burr Trail and then on to Boulder in a subcompact car. I think there is at least enough road there now, and that paving it would be a mistake.

My first trip was on September 29, 1980. I reached the top of the switchbacks up the Waterpocket Fold late in the afternoon, and walked around near the Lower Muley Twist Trailhead. I remember looking north up the Notom Road at the parallel hogbacks in the Strike Valley between the road and the cretaceous mesas to the east. I remember the beauty of the mesas and the Henrys in the late afternoon light.

I continued west on the Burr Trail to the western boundary of Capitol Reef National Park, and camped on a shoulder just outside the park. I still remember vividly the last rays of the sunset light on the crest of the Waterpocket Fold south. Indeed, I remember it as one of the loveliest and most peaceful evenings I have ever spent out of doors. Continual traffic on the road would have detracted from the evening. Not everybody has to be there at the same time. I was happy to do without a developed campground to be alone.

I recall, for instance, one time in Capitol Reef National Park a neighbor of mine at the campground had a model helicopter which he flew in the evening. Long after sunset, in the whole bright night, the crest of the Waterpocket Fold could still be seen. When I got home and read about the Circle Clifts anticline, I made the sketch that is attached to my testimony as a souvenir.

The next day I continued to Boulder. I particularly remember the brightness of the Chinle formation where the road climbs into Long Canyon. I cannot think of any other place where it is such a bright purple. Of course, I remember the beauty of Long Canyon. There are many beautiful cliff-forming sandstones on the Colorado Plateau, but the Wingate, which forms the walls of Long Canyon, is my favorite. The facets and crenelations of a Wingate cliff always fascinate me.

Finally, I remember climbing up to Boulder through the Little Zion of Navajo knobs south of town.

I made a similar trip on Memorial Day 1984. I again reached the top of the switchbacks in the late afternoon and watched the shadow of the fold creep across the Strike Valley. I met a patrolling Capitol Reef ranger who told me of his opposition to paving the Burr Trail. Again, I camped just west of the park. This was Memorial Day, and things were a little busier, and I am happy to share with other people, but it was not the same as it was the first evening, when I was alone with the light on the reef to the south in the evening.

I have just purchased an airline ticket to Salt Lake City for May. One of my intended destinations is the Post, which is on the Burr Trail. I plan to hike the rest of the Lower Muley Twist below the Post. I am particularly looking forward to the stretch where the Muley Twist Canyon cuts out through the reef and returns to Halls Canyon.

Colorado Plateau in Utah is the most beautiful place there is. It does not need more paved roads.

[The prepared statement of Mr. Messenger follows:]

STATEMENT ON S.B. 2265
SUBMITTED TO THE SUBCOMMITTEE ON PBULIC LANDS,
RESERVED WATER AND NATURAL RESOURCE CONSERVATION
OF THE
ENERGY AND NATURAL RESOURCES COMMITTEE,
UNITED STATES SENATE

Submitted by:
Thomas J. Messenger
2900 South Glebe Road
Arlington, Virginia 22206

TESTIMONY ON THE BURR TRAIL
11 APRIL 1986 BEFORE THE
SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION

I have twice driven down the Notom road from Utah 24 to the Burr Trail and then on to Boulder in a subcompact car. I think there is at least enough road there now and that paving the road would be a mistake.

My first trip was on 29 September 1980. I reached the top of the switchbacks up the Waterpocket Fold late in the afternoon and walked around near the lower Muley Twist trailhead. I remember looking north up the Notom road at the parallel hogbacks in the strike valley between the fold and the Cretaceous mesas to the east. I remember the beauty of the mesas and the Henrys in the late afternoon light. I continued west on the Burr Trail to the western boundary of Capitol Reef National Park and camped on the shoulder just outside the park. I still remember vividly the last rays of the sunset light on the crest of the Waterpocket Fold to the south. Indeed, I remember it as one of the loveliest and most peaceful evenings I have ever spent out of doors. Continual traffic on the road would have detracted from the evening. I was happy to do without a developed camp ground to be alone. I had a neighbor in the Capitol Reef campground once who flew a model helicopter for amusement. Long after sunset (and the whole bright night) the crest could still be seen. When I got home and read about the Circle Cliffs anticline, I made this sketch as a souvenir of the night. The next day I continued to Boulder. I particularly remember the brightness of the Chinle where the road climbs into Long Canyon. I can't think of any other place where it is such a bright purple. Of course, I remember the beauty of Long Canyon. There are many exquisitely beautiful cliff-forming sandstones on the Colorado Plateau, but the Wingate is my favorite. The facets and crenelations of a Wingate cliff always fascinate me. And finally, I remember climbing up to Boulder through the little Zion of Navajo knobs.

I made a similar trip on Memorial Day 1984. I again reached the top of the switchbacks in the late afternoon and watched the shadow of the fold creep across the strike valley. I met a patrolling Capitol Reef ranger who told me of his opposition to paving the Burr Trail. Again I camped just west of the park. The next day i parked at the Muley Twist trailhead and took a short hike down to the Post cutoff and back before continuing on to Boulder. Besides the ranger I met several people on the switchbacks and some hikers at the Muley Twist trailhead. The was also someone else camping in the impromtu primitive campground on the BLM land just west of the park. Though my camp was better, the enchantment was less.

I have just purchased an airline ticket to Salt Lake City for May. One of my intended destinations is the Post. I plan to hike the rest of lower Muley Twist below the Post. I am particularly looking forward to the stretch where the canyon breaks through the fold.

The Colorado Plateau in Utah is the most beautiful place there is. It doesn't need improving or paving over: it needs protection. Please leave it as it is, so that I can enjoy it as much in the future as I have the last ten years. Public money should not be spent to despoil public lands.

Thomas J. Messenger
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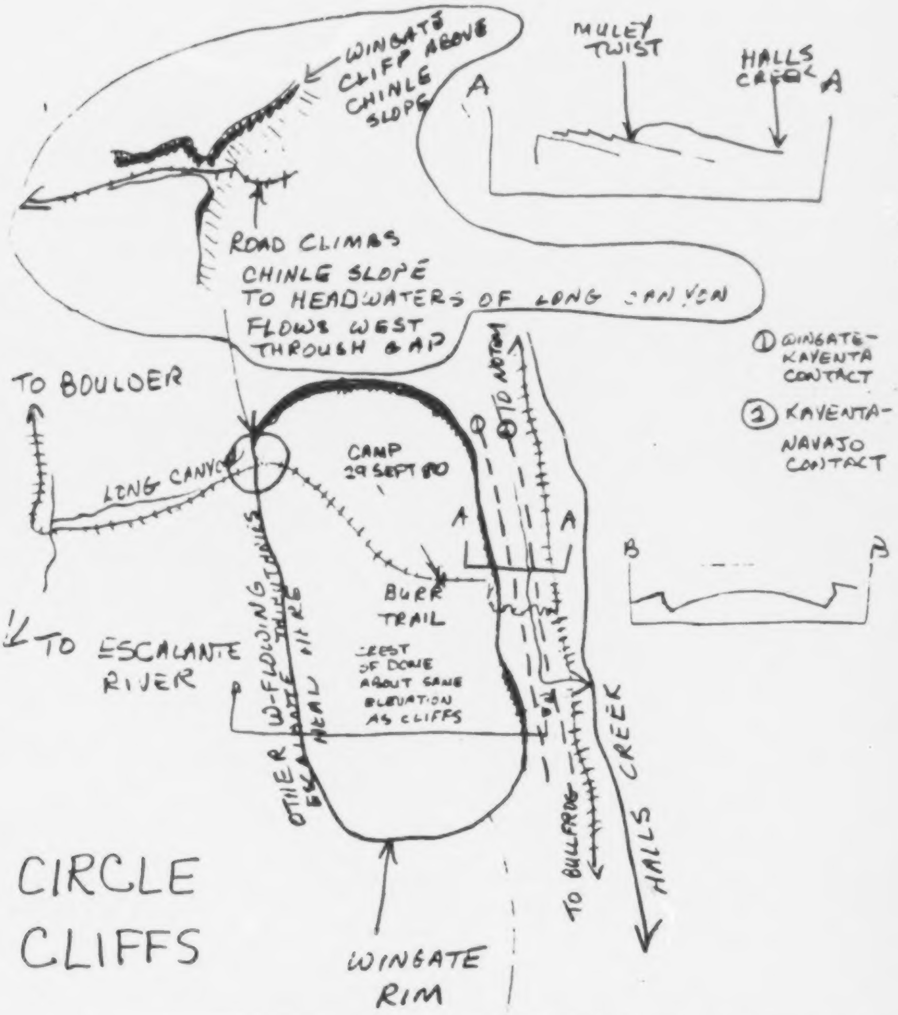
Arlington, Virginia 22206


WINGATE CLIFF ABOVE CHINLE SLOPE
MULEY TWIST
HALLS CREEK
A
A
ROAD CLIMBS CHINLE SLOPE TO HEADWATERS OF LONG CANYON FLOWS WEST THROUGH GAP
① WINGATE-KAYENTA CONTACT
② KAYENTA-NAVAJO CONTACT
TO BOULDER
TO NOTOM
LONG CANYON
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A
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BURR TRAIL
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OTHER W-FLOWING TRIBUTARIES ESCALANTE HEAD HERE
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TO BULLFROG
HALLS CREEK
CIRCLE CLIFFS
WINGATE RIM

OLD WAGON ROUTE THROUGH CLIFFS ON E FOLLOWED BED OF MULEY TWIST CREEK. BED APPARENTLY ABOUT A WAGON WIDTH WIDE. NO ROAD NOW

Senator WALLOP. Thank you.

STATEMENT OF ADELE K-SMITH, SPRINGDALE, UT

Ms. K-SMITH. My name is Adele K-Smith. I am resident of Springdale, UT.

Mr. Chairman, I come before this committee as an individual who recreates in the spectacular terrain of southern Utah, as a back country guide, and outdoor educator. The heart of the Escalante Canyons is bisected by the Burr Trail.

I would like to focus my oral comments on the inappropriateness of S. 2265, which will change the character of this road, and will jeopardize the current outstanding scenic and natural values. The bill will also strap our taxpayers with a large initial expenditure of $16 to $22 million, and an estimated annual operating and maintenance cost of $435,000.

Under provisions of this bill, 9.5 miles of the 66-mile road would be paved. The remaining 55.5 miles are to be graveled. Compared to earlier proposals, this amount of pavement may not seem like much. To understand the magnitude of the proposal, however, you must understand that the pavement would be placed in the two most environmentally sensitive areas of the road, the Gulch and Long Canyon and the Switchbacks through Waterpocket Fold.

Long Canyon is a spectacular, narrow canyon whose vertical sandstone walls are as little as 100 feet apart and never more than 300 feet apart throughout the 8-mile stretch. This part of the road also forms the boundary between two BLM wilderness study areas, Steep Creek and the North Escalante Canyons. At the switchbacks, the road plunges over 1,000 feet in a mere mile and a quarter through Waterpocket Fold. Paving the trail through Long Canyon will require widening from the present 12 to 16 feet to standards of 24 feet to accommodate the standard tour buses this bill would permit to use it.

These same standard buses demand a turning radius of 42 feet. The narrow switchbacks throughout the Waterpocket Fold now permits a radius of only 25 to 30 feet. To achieve the grandiose 42 feet of turning, Fold blasting, grading, contouring, and filling will be necessary. It is no wonder that the National Park Service last year recommended further environmental clearances and did not rule out the need for an environmental impact statement.

In fact, the agency found that its own environmental assessment failed to inventory archeological resources, failed to examine the impact of road construction on the peregrine falcons, which are endangered, as they nest in Long Canyon, or on the desert big horn sheep that range the area, and it fails to acknowledge, much less analyze, the impact of increased traffic on adjacent roadless areas.

It is useful to note the same professionals in the National Park Service who so candidly detailed the inadequacies of their own 1985 environmental assessment also said they needed no pavement on the Burr Trail to meet park management and resource protection needs. That professional recommendation is ignored by S. 2265, and the environmental study deficiencies have never been corrected.

We still do not know the extent of the likely environmental impact of any change on the Burr Trail. What we do know is alarming, and is sufficient reason to leave the wild, unique, and spectacular Burr Trail alone.

[The prepared statement of Ms. K-Smith follows:]

STATEMENT ON S.B. 2265
SUBMITTED TO THE SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND NATURAL RESOURCE CONSERVATION OF THE ENERGY AND NATURAL RESOURCES COMMITTEE, UNITED STATES SENATE

Submitted by:
Adele K-Smith
P.O. Box 59
Sprindale, Utah 84767
April 11, 1986

My name is Adele K-Smith. I am a resident of Springdale, Utah. Mr. Chairman, I come before this committee as an individual who recreates in the spectacular terrain of southern Utah as a backcountry guide and outdoor educator.

The heart of the Escalante Canyons is bisected by the Burr Trail, a dirt road through seemingly endless scenic wonders and limitless natural beauty. I would like to focus my oral comments on the inappropriateness of S.B. 2265, which will change the character of this road and will jeopardize the current outstanding scenic and natural values. This bill will also strap our taxpayers with a large initial expenditure and an estimated annual maintenance cost of $435,000.

Under provisions of this bill, 9.5 miles of the 66-mile road would be paved. The remaining 55.5 miles are to be graveled. Compared to earlier proposals, this amount of pavement may not seem like much. To understand the magnitude of the proposal, you must understand that the pavement would be placed in the two most environmentally sensitive areas of the road--the Gulch and Long Canyon and the Switchbacks through the Waterpocket Fold.

Long Canyon is a spectacular, narrow canyon whose vertical sandstone walls are as little as 100 feet apart and never more than 300 feet apart throughout the eight mile stretch. This part of the road also forms the boundary between two BLM wilderness study areas, Steep Creek and North Escalante Canyons. At the Switchbacks, the road plunges over 1000 feet in a mere mile and a quarter through the Waterpocket Fold in Capitol Reef National Park.

Paving the trail through Long Canyon will require a widening from the present 12 to 16 feet to 24 feet to accommodate the standard tour buses the bill would permit to use it.

These same standard buses demand a turning radius of 42 feet. The narrow switchbacks through the Waterpocket Fold now permit a radius of only 25 to 30 feet. To achieve the grandiose 42 feet of turning radius down the rocky face of the fold, blasting, grading, contouring and filling will be necessary.

It is no wonder that the National Park Service last year recommended further environmental clearances--and did not rule out the need for an EIS. Among the shortcomings the agency found in its own environmental assessment were these:

--the document's utter failure to inventory (or to do more than superficially acknowledge) archaeological resources;
--the failure to examine the impact of an upgraded road with its increased traffic on the endangered peregrine falcons that nest in Long Canyon or of the desert bighorn sheep that range the Burr Trail area;
--and the failure to acknowledge--much less analyze--the impact of increased traffic on adjacent roadless areas.

It is useful to note that the same professionals in the National Park Service who so candidly detailed the inadequacies of their own 1985 environmental assessment also said that they needed no pavement on the Burr Trail to meet their management and resource protection needs. That professional recognition is ignored by S.B.2265 and the environmental study deficiencies have never been corrected. We still do not know the extent of the likely environmental impact of any change in the status of the Burr Trail. What we do know is alarming enough--and sufficient reason to leave the wild, unique and spectacular Burr Trail alone.

Senator WALLOP. Thank you all very much. I get a sense of some unreality about the testimony. The unreality is that you completely ignore the people who live there and their reality, and I just—it strikes me that there is an expression. I have been around politics long enough to know that there is something very unreal about a claim that this is politically unpopular when you have the entire Utah delegation, the Governor—the legislature has appropriated money. It is not usual for politicians to swim that swiftly upstream.

But your testimony has been registered, and will be weighed by the subcommittee with all the rest of it. Thank you very much.

The next panel is Terri Martin of the Rocky Mountain Region of the National Parks and Conservation Association; Maggie Fox, southwest representative of the Sierra Club; Darrell Knuffke, Central Rockies' Region of the Wilderness Society. Ms. Martin.

STATEMENT OF TERRI MARTIN, ROCKY MOUNTAIN REGIONAL REPRESENTATIVE, NATIONAL PARKS AND CONSERVATION ASSOCIATION

Ms. MARTIN. Thank you, Senator.

I am Terri Martin, Rocky Mountain regional representative of the National Parks and Conservation Association.

Senate bill 2265 would require an excessive and imprudent expenditure of Federal funds, funds sorely needed for other park management priorities. Even without Gramm-Rudman, the authorization of nearly $8 million to pave the Burr Trail, an unneeded and environmentally destructive project, would be excessive.

But given the cuts imposed by Gramm-Rudman on existing park visitor services, this appropriation simply cannot be justified.

Senator WALLOP. May I, and I will not interrupt on your time, but the fact is, that money is already appropriated. That is behind us, not in front of us.

Ms. MARTIN. Senator, we feel that that money is still part of a larger pool of funds available for park services in Utah. There is an opportunity to reprogram it, to fulfill some of the needs of projects that have been cut. For example, we have a road being paved right now in Canyonlands National Park. We just lost that money, reprogrammed to another park. That road needs to be finished. So I would imagine the same opportunity exists here.

Senator WALLOP. I do not want to waste your time on your response to my observation. It is an observation that that money is already appropriated.

Ms. MARTIN. I will continue. Thank you.

S. 2265 would authorize the expenditure of $7.75 million, but the full costs of road construction authorized by the bill are much, much larger. The National Park Service has estimated that it will cost $16 to $22 million to pave 10 miles and gravel 56 miles of the Burr Trail. While the State of Utah has set aside $3.1 million to work on the trail, that money and today's Federal appropriation add up to less than $11 million, $5 to $11 million less than the Park Service cost estimate. Who is going to pick up the remaining tab?

Given Utah's continuing and increasing budget shortfalls, State funds may simply be unavailable. In short, we may well see Congress asked to provide another multimillion dollar appropriation to finish this road construction project.

But Burr Trail construction costs approved under this bill could easily exceed these costs. There is nothing in the bill which defines, much less limits the nature, extent, or cost of road construction. In fact, the bill would allow the State of Utah and the National Park Service rather than Congress to decide what construction measures will be allowed.

But these are only the initial construction costs. S. 2265 will also incur significant additional long-term operation and maintenance costs. The NPS reports that at a minimum these costs will total $450,000 a year. This estimate, however, can also be expected to rise, especially if the maintenance standards recently requested by the State of Utah are adopted.

In short, today's proposed authorization of $7.75 million for paving the Burr Trail is only the tip of the iceberg. Real costs include $16 to $22 million or more for initial construction and an annual operating and maintenance cost of $0.5 million or more. How can we justify this expenditure? The Burr Trail paving project has not been identified in Park Service multiyear construction priorities.

Under Gramm-Rudman, existing park services in Utah have been slashed. Permanent and seasonal park ranger positions in virtually every Utah national park have been eliminated or left unfilled. Visitor centers and contact stations in many parks are being closed 2 to 3 days a week or closed early every day. Interpretive programs have been significantly reduced.

If scarce Federal dollars are to be spent in Utah, they should go to preserve these existing services sorely needed to assure park protection, visitor enjoyment, and tourism, rather than to a controversial project with questionable benefits to the State of Utah and the national interest.

Thank you.

[The prepared statement of Ms. Martin follows, attachments have been retained in subcommittee files:]

April 11, 1986

STATEMENT ON S.B. 2265
SUBMITTED TO SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION OF THE ENERGY AND NATURAL RESOURCES COMMITTEE, UNITED STATES SENATE

Submitted by:

Terri Martin
Rocky Mountain Regional Representative
National Parks and Conservation Association
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National Office:
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Washington, D.C. 20009

I. BACKGROUND

Brief Description of the Burr Trail:

The Burr Trail is a 66 mile long, 2 wheel drive, graded dirt road that runs from the town of Boulder, Utah to the Bullfrog marina on Lake Powell. The road's backcountry character has long attracted tourists seeking the rural and remote atmosphere of Utah's parklands.

The southernmost 6.4 miles of the road lie within Glen Canyon National Recreation Area. A 9.6 mile midsection of the road bisects Capitol Reef National Park, cutting through the spectacular geology of the Waterpocket Fold in a series of steep switchbacks. Approximately 16 miles of the westernmost section are bordered on either side by Bureau of Land Management (BLM) Wilderness Study Areas (WSAs) -- North Escalante Canyons/The Gulch and Steep Creek -- tributaries and major hiking corridors to the nationally acclaimed Escalante Canyon. In short, the Burr Trail is a highly scenic roadway that traverse unique and environmentally sensitive lands.

Recent Developments in the Long Dispute Over Paving:

For more than a decade, conservationists have opposed the paving of this road, or any part of it, as unnecessary, environmentally destructive, and an imprudent expenditure of limited public funds which are sorely needed for other park management priorities.

National Parks and Conservation Association, 1701 Eighteenth Street, N.W., Washington, D.C. 20009
telephone (202) 265-2717

In 1985, after extensive debate, Congress conditionally approved appropriation of $8.1 million for the engineering and construction of the Burr Trail as a Rural Scenic Road under NPS jurisdiction. Congress made the expenditure of these funds subject to further authorizing legislation however, because of the long-standing controversy over the need for, cost of, and environmental impacts of upgrading the road.

On March 27, Senator Jake Garn of Utah introduced legislation (SB 2265) that would authorize the designation of the Burr Trail as a NPS administered "Rural Scenic Roadway." If enacted, the Bill would authorize release of appropriated funds to pave and gravel the road.

Although the impacts of paving the Burr Trail on surrounding Park and BLM wildlands has provoked most of the dispute about this road, SB 2265 does not describe the character or extent of road construction which would be allowed. Rather, the Bill leaves this and other critical issues to be resolved in a separate contract to be signed by the Interior Secretary and the State of Utah after the Act is passed. Hence, contrary to the intent of the conditional appropriation, SB 2265 would leave major decisions about the road's future to back-room negotiations. Even more troubling, the Act makes Park Service administration of the road contingent upon State and NPS agreement to the terms of this contract. Furthermore, the Bill vaguely authorizes a "reversion" clause in the contract that apparently could result in conveyance of the road to the State of Utah rather than NPS jurisdiction.

Proposed Road Construction Under SB 2265 and Draft Grant and Contract

The following road construction activities are anticipated in a draft "contract" prepared at Senator Garn's request (but not included in SB 2265). Construction is not limited to these activities, however, because the contract also authorizes virtually unlimited "modification" of "surface requirements, grade, alignment, road section and hydraulic structures as may be necessary."

Construction presently proposed by the contract includes:

>> Fully pave 9.5 miles of the most sensitive and scenic part of the Burr Trail. This includes 8.3 miles of the Gulch and Long Canyon, and 1.2 miles in the switchback sections of the road through Capitol Reef National Park.

[The Gulch and Long Canyon are scenically spectacular and environmentally sensitive canyons with high sandstone walls. The Burr Trail descends into and lies in the vulnerable bottoms of these canyons -- carved out of the cliff wall of the Gulch and the steam bank of Long Canyon. As the road traverses these canyons, it forms the boundary between two BLM Wilderness Study Areas (WSAs) proposed by the BLM for wilderness designation.]

[The switchback sections of the road in Capitol Reef National Park cut through the dramatic and spectacular Waterpocket Fold, a unique geologic formation of massive tilted rock formations.]

>> Gravel the remainder of the road.

>> Widen, re-align, and regrade the road at numerous points.

[Although the proposed NPS/State contract says that the road "shall follow the existing [alignment] as closely as possible," it also requires compliance with "Park Service Road Standards" and service for 96 inch-wide busses. NPS road standards recommend a 24- foot-wide road surface, with a 4:1 edge slope. (Approximately 3-4 foot wide shoulders on each side.) The current surface of the Burr Trail varies, but is only 12-14 feet wide. Preliminary engineering reports plan extensive widening, grading and realignment.]

>> Construct 2 bridges: one at Bullfrog Creek and one at Horse Canyon.

>> Install concrete dips at four drainages: Deer Creek, the Gulch, Muley Twist and Horse Canyon.

The cost of the above listed road construction activities has been estimated at approximately $15 million.

II. REASONS FOR OPPOSING BURR TRAIL CONSTRUCTION

The National Parks and Conservation Association, along with the majority of Utah citizens, opposes the Burr Trail paving and graveling project described above for the following reasons:

1. It is unnecessary.

The Burr Trail is currently a 2 wheel drive, graded dirt road, easily driven in passenger cars at reasonable speeds, often as fast as 45-60 miles per hour. The road is passable year round, with brief exceptions during periods of hard rain or snow, usually occurring only in late winter or, occasionally, in late summer. During light, dry winters in South Central Utah, the road is passable most of the time.

Furthermore, there are alternative and highly scenic paved routes to all Burr Trail destination points. Tourists travelling from Boulder to Bullfrog (the Burr Trail's origin and destination points) can now drive the spectacular Boulder Mountain Highway to U-24, take U-24 through Capitol Reef National Park to Utah highway 95 (U-95), and then travel south on U-95 and U-276 to Bullfrog marina. (See map.) This scenically spectacular route is only 90 miles longer than the Burr Trail, and funnels tourists -- and tourist dollars -- through existing Utah communities, as well as through the main visitor service corridor of Capitol Reef National Park.

2. Paving the Burr Trail would irrevocably change the scenic and wild character of the Escalante region, particularly the unique, wild and environmentally sensitive National Park and BLM wild lands that border the road.

The Burr Trail travels through some of the most spectacular wildlands in North America--over one million roadless acres of redrock canyons, 11,000 foot high mountains, and desert panoramas.

The road traverses Capitol Reef National Park for 9.6 miles and enters Glen Canyon NRA for 6 miles. It passes through the heart of the internationally acclaimed Escalante Canyon Region, providing access to tributaries and major hiking corridors into the Escalante River Canyon. Five large roadless areas, recommended for wilderness designation by the Utah Wilderness Coalition (a coalition of 17 national, regional and state organizations) lie adjacent to the Burr Trail. These roadless areas, comprised of NPS, BLM and NFS lands, range in size from the 24,000 acre White Canyon to the immense 616,000 Escalante Canyons. The greater portion of these roadless areas is administered by the BLM. (See at end: Roadless Areas in Burr Trail Region Recommended for Wilderness by Utah Wilderness Coalition.) Sixteen miles of the road form the boundary between two BLM Wilderness Study Areas (North Escalante Canyons/The Gulch and Steep Creek) which have been recommended by the BLM for wilderness designation.

Since the road was constructed in the 1950s, it has become increasingly popular to tourists and recreationists of all sorts seeking a rural and remote road experience. The backcountry character of the road is highly valued because it provides an opportunity to "get off the pavement" and "away from the crowds." Thus, the road contributes substantially to the diversity of recreational experience available in the region.

Preservation of the Burr Trail's backcountry character has long been seen as an integral part of citizen efforts to protect the scenic, recreational and wilderness values of the region. In the early 1970s, for example, citizens formed the "Escalante Wilderness Committee" to protect the Escalante region from proposed dam and powerplant construction, mineral development as well as inappropriate tourism development. A major focus of these citizens' efforts has been opposition to proposals for a Trans-Escalante highway in order to preserve the existing character of the Burr Trail in a manner consistent with the wilderness and recreational values of the area.

Under the draft contract authorized by SB 2265, the Burr Trail would be paved for 9.5 miles and graveled for 55.5 miles. While the draft contract says that "the grade, alignment, and road section shall follow the existing as closely as possible" it also makes construction "subject to the "Park Service Road Standards" and calls for the accommodation of 96 inch wide tour busses. As a result, the entire road could be widened from its current 12-14 feet surface to 24 feet. Additional widening of the road could occur under the 4:1 edge slope standard, which would result in 3-4 foot wide shoulders.

Under these provisions, two of the most environmentally sensitive and scenically spectacular sections of the road would be paved--Long Canyon and the switchbacks through Capitol Reef National Park.

The Gulch and Long Canyon are scenically spectacular and environmentally sensitive canyons with high sandstone walls. The Burr Trails descends into and lies in the bottom of these canyons--carved out of the cliff wall of the Gulch and the stream bank of Long Canyon. As the road traverses these canyons, it forms the boundary between two BLM Wilderness Study Areas (WSAs) proposed by the BLM for wilderness designation.

The switchback sections of the road in Capitol Reef National Park cut through the dramatic and spectacular Waterpocket Fold, a unique geologic formation of massive tilted rock formations.

Paving these areas would dramatically degrade their scenic, pristine character.

The sandstone cliffs bracing the existing switchbacks through Capitol Reef may be blasted back to allow widening of the turns to accommodate tour busses. In addition, major cuts and fills, realignments and widening of the road could be required at numerous sites along the length of the road. Steep turns, swells and dips would probably be "ironed out" and many minor realignments would be made along the entire length of the road.

Furthermore, additional, even more extensive environmental damage could occur because the draft contract authorized by SB 2265 allows "modifications" to the proposed construction activities "as may be necessary."

In addition to these immediate physical impacts, paving is likely to cause long-term adverse impacts that are difficult, if not impossible, to mitigate. Upgrading the road into the Burr Trail country will undoubtedly mean increasingly severe impacts on surrounding wildlands, as well as increased off-road vehicle damage and vandalism to archeological sites. Yet SB 2265 provides for no additional protection. Only a minimal road corridor is proposed -- less than 1/10 mile on each side -- despite the vulnerable open wildlands surrounding the road. The bill offers no designation of the surrounding BLM wildlands as wilderness; provides no additional funding to staff NPS management or maintenance of the road; and fails to require planning and management to assure protection of the scenic and recreational values of adjacent lands. Nor is there any provision to increase NPS and BLM management and field staffs to levels necessary to help mitigate these resource impacts.

Upgrading the road is also likely to encourage proposed land exchanges and haphazard roadside development that will intrude on the outstanding scenic quality of the area. Yet no provision is made by SB 2265 to prevent such developments by acquiring State sections or by limiting land exchanges.

Finally, improvement of the Burr Trail is also likely to increase pressure for mineral extraction in the area. Unless the road is put off limits for heavy trucking operations, it will encourage many of the industrial activities, and related environmental damage, that have thus far been avoided: tar sand development in the Circle Cliffs; coal mining in the Henry Mountains; and oil and gas, uranium and CO2 development throughout the area.

In short, the construction activities provided for under the draft contract and SB 2265 would have major short-term and long-term impacts on the scenic, recreational and wilderness resources of the Escalante region.

3. No adequate environmental analysis of the impacts from the current proposed road construction project has been completed--contrary to the intent of Congress in appropriating $200,000 for environmental review of the Burr Trail paving proposals. An EIS should be completed prior to any further consideration or congressional action on proposed road construction activities.

In recommending appropriation of $200,000 for fiscal year 1985 for an Environmental Assessment on the Burr Trail paving proposals, the Conference Report emphasized that the conferees were "extremely sensitive to the environmental consequences of such construction," and funded an assessment "in order to provide adequate information respecting environmental concerns." Congressional Record page H 11922 (Oct. 10, 1984).

In its Environmental Assessment (EA) on "Paving the Burr Trail" however, NPS failed to develop the basic information needed to evaluate the environmental impact of paving or partial paving on the scenic, recreational and wilderness values of the region.

The EA failed to provide the "adequate information" sought by Congress on most of the crucial environmental impacts of the road paving proposals. Specifically the EA failed to provide an adequate analysis of road paving impacts on: park and BLM wilderness values; on BLM's interim management policy; on regional recreational values and visitor use of the area; on cultural resources; on threatened and endangered species (there is a known peregrine eyre in Long Canyon on the Burr Trail); on mineral and commercial development in the area; on the affect of proposed mineral extraction and utility development in the region; and on the legal status of the road's right of way. (Copies of NPCA's detailed critique of the EA is attached.)

In fact, the NPS admits that "in its broad approach, the EA requires more detailed investigation to satisfy concerns." According to the NPS this includes: a plan detailing the location and construction of borrow areas and haul roads satisfying them; extraction of borrow, and reclamation of borrow areas and service roads; the handling of water runoff problems in the Gulch and Long Canyon; the sensitive requirements of construction in Muley Twist Wash and the Burr Trail switchbacks; and the relocation of over a mile of road along Hall's Creek in Capitol Reef National Park. Furthermore,the NPS notes that additional clearances would have to be obtained before any construction could proceed, including appropriate site-specific archeological surveys; a biological opinion from the Fish and WIldlife Service; and possible Section 404 permits.

SB 2265 and the draft contract fail to require that an adequate environmental assessment be completed prior to a decision on the proposed road construction activities.

4. The currently-proposed road construction activities will require unnecessary, excessive and an imprudent expenditure of federal funds sorely needed for other park management priorities.

The road construction activities proposed by SB 2265 and the accompanying draft contract are estimated to cost 15 million dollars. SB 2265 would authorize the expenditure of $8.1 million of federal funds, and the draft contract would require the NPS to seek additional funds for the completion of road within Capitol Reef National Park and Glen Canyon National Recreation Area and for construction of an interpretative center in Boulder, Utah.

Expenditure of limited federal funds on this unneeded and environmentally damaging project is especially objectionable in light of Gramm-Rudman budget cuts on other park management priorities in Utah. Current budget reductions have already hindered critical park protection, interpretation, resource management, maintenance and visitor services; and future cuts threaten to cause even more serious damage. If limited federal funds are to help tourism in southern Utah, they should be committed to preserving existing visitor services in Utah's national parks.

Budget cuts have already forced Utah national parks to abandon or defer many crucial services: park ranger positions have been eliminated; many permanent and seasonal NPS ranger, clerical and maintenance positions have been vacated and left unfilled; visitor centers have been closed for several days a week or closed daily at earlier times during winter and summer seasons; and other visitor services have been cut back. A brief summary of current staffing and service cuts follow:

Zion National Park:

Staffing: Failed to fill vacant positions of:
- -1 permanent maintenance worker (1 of staff of 8)
- -1 heavy equipment operator (1 of 6)
- -1 computer specialist
- -1 seasonal ranger (law enforcement, 1 of 2)
- -1 seasonal ranger (resource management)

Visitor Services:
-closed amphitheatre in Watchman Campground and cancelled interpretative programs.

Cedar Breaks National Monument:

Visitor Services:
-cancelled state contract to plow State Highway 148 into Cedar Breaks National Monument. This means that the park opening date will be delayed because the entrance road will be closed until the sun melts the snow in the spring.

Bryce Canyon National Park:

Staffing: Failed to fill vacant positions of:
- -1 permanent secretary (1 of 3)
- -1 permanent purchasing agent
- -1 permanent program clerk for maintenance

-All seasonal staff employment will be cut by 4 weeks.

Arches National Park:

Staffing: Failed to fill vacant positions of:
- -1 permanent Chief Ranger
- -Reduced seasonal staff employment by 4 weeks.

Visitor Services:
-Closed visitor center 2 days a week during winter season, and closed visitor center 1 and 1/2 hours earlier every day during winter season.

Canyonlands National Park:

Staffing: Failed to fill the vacant positions of:
- -1 assistant district ranger.

-cut seasonal positions by 1-2 weeks.

Visitor Service:
-Closed Island-in-the-Sky and Needles contact stations 2 days a week during winter season.

Natural Bridges National Monument:

Visitor Services:
-Closed visitor center 3 days a week during winter.

Capitol Reef National Park:

Staffing: -Eliminated 1 temporary biological technician conducting study of grazing impacts on the park.

-Changed 1 permanent park ranger position and 1 permanent clerical position to seasonal positions.

-Failed to fill one seasonal ranger position.

Glen Canyon National Recreation Area:

Staffing: -Because of a special Congressional appropriation of $600,000 in 1985, Glen Canyon added 3 additional staff: a seasonal interpreter at Rainbow Bridge (more than 200,000 visitors visit the Bridge annually); a seasonal ranger at Lone Rock; and an archeologist. These positions were critically needed to assure protection of NRA values and resources and to provide for adequate visitor services. In the past decade, use of the NRA has increased from about 1 million to 2 million visitors. Future cuts under Gramm-Rudman threaten to abolish the new critically needed staff, as well as force reductions in visitor facilities and services.

5. The benefit to Utah's tourism economy from paving the Burr Trail is questionable, and has been unrealistically inflated by paving proponents.

Proponents of paving the Burr Trail attempt to justify this expenditure of scarce federal and state funds by arguing that it completes a "Grand Circle Tour" of southern Utah parks and increases tourism dollars in the region.

The facts do not support these claims. The Boulder Mountain Highway -- a scenically spectacular roadway connecting Boulder, Utah to Utah Highway 24 -- already provides the final paved link in Utah's Grand Circle of parklands. Paving of this road was completed in 1985, and historically it has been seen as the integral link to the "Grand Circle Tour."

Moreover, the Boulder Mountain Highway funnels tourists, and tourist dollars, into the small Utah towns of Torrey, Loa, Bicknel and Hanksville, as well as through Capitol Reef National Park's developed campground, visitor center and maintained trails. The Burr Trail, in contrast, bisects undeveloped BLM wildlands and national parklands with no available ranger or private sector services.

Paving the Burr Trail would actually divert needed tourist traffic from southern Utah towns, while only "saving" the tourists travelling from Boulder to Bullfrog 90 miles of driving. Paving the Burr Trail would actually cause tourists to spend less time, and money, in Utah!

Furthermore, no meaningful cost-benefit analysis has ever been completed on the Burr Trail paving proposal. The socioeconomic analysis accompanying the NPS "Burr Trail Paving EA" relies on unsupported traffic increase projections published by Creamer and Noble Engineering (a financially-interested paving advocate). Creamer and Noble's projections are unrealistic and unsupported by any factual data or analysis. According to Creamer and Noble, the average daily traffic count on the Burr Trail will increase from a current rate of 10 cars/day to 250 cars/day by 1994. The prediction assumes a growth rate of 6% a year for traffic into the Bullfrog marina, with diversion of one-fourth of that traffic onto the Burr Trail. It also assumes an additional unexplained increase of 74 cars/day simply because the Burr Trail is paved.

Creamer and Noble does not provide a data base or factual analysis to support the predicted increase of 74 cars/day. Furthermore, traffic counts by the Utah Department of Transportation for Utah Highway 276 (the existing paved road into Bullfrog marina) indicate that the predicted 6 percent growth rate is unrealistic. UDOT traffic counts for U-276 show virtually no growth since 1978. (Average Annual Traffic Counts by UDOT show: 1978--380 vehicles/day; 1980--411 vehicles/day; 1983--350 vehicles/day.)

Finally, proponents who claim that paving the Burr Trail will increase tourism revenues in the region fail to recognize the value of the road with its present character--a highly scenic, backcountry dirt road, winding through remote, pristine and wild country. This backcountry character of the road is a growing attraction to many visitors. Diversity is an important aspect of a successful regional tourism economy. Many tourists come to Utah seeking an "off-pavement" experience and to "get away" from the crowds. Preserving the Burr Trail unpaved may in the long run produce greater tourism benefits than making the Trail just another paved roadway.

7. The majority of Utahns oppose paving the Burr Trail, despite delegation efforts to inhibit opposition.

An October 1985 Deseret News/KSL statewide poll showed that 53 percent of Utahns who knew about the Burr Trail opposed paving it, as compared with 32 percent who supported paving. (Copy attached.)

Furthermore, the major northern Utah newspapers (representing the major population centers) have repeatedly editorialized against paving the Burr Trail. (See attached editorials.)

Despite claims by paving proponents that Utahns favor paving, the poll and editorials prove otherwise.

Furthermore, it should be noted that Utah's Congressional delegation has deliberately tried to limit public opportunities to speak out against the proposed paving project. In February 1985, the delegation (with the exception of Congressman David Monson) and Utah's Governor Norm Bangerter, wrote to the NPS Regional Director specifically requesting that public hearings on its Environmental Assessment not be held in Salt Lake City. Since the strongest public opposition to paving the Burr Trail is in northern Utah, this was an obvious attempt to limit public criticism of the paving proposal. Despite more than 50 individual requests for a hearing in Salt Lake City, and written requests by Utah Congressman David Monson and National Parks Subcommittee Chairman Bruce Vento, the NPS complied with the Delegation's request.

[Nevertheless, citizens organized their own "Citizens Hearing" in Salt Lake City, attended by more than 200 people. All but one of the 28 speakers opposed paving, and the single "pro" speaker was from southern Utah.]

III. MAJOR CRITICISMS OF SB 2265

In addition to the above general criticisms of the road construction activities proposed by SB 2265 and the draft contract, NPCA provides the following specific comments on SB 2265.

1. SB 2265 fails to address the major controversial issue at the center of the Burr Trail debate--what road construction activities, if any, are appropriate for the Burr Trail.

When Congress made its appropriation of $8.5 million contingent upon passage of authorizing legislation, it is clear that the intent was to provide opportunity for Congressional consideration and public debate over the future of the Burr Trail. SB 2265 does not provide this opportunity because it does not address the key issues at the center of the Burr Trail controversy. Rather, these issues are deferred for treatment in a contract, currently available only in draft form. None of the major issues are resolved by SB 2265; and the contract it relies on is clearly subject to change.

As now written, SB 2265 allows the State of Utah and the National Park Service (as signers of the contract) to decide the central issues of the Burr Trail debate -- what road construction activities, if any, will occur, and what levels of environmental degradation will be permitted.

This is not acceptable. At a minimum, SB 2265 must be amended to include a description of the road construction activities approved under the Bill, or to provide clear guidance on the key issues. At a minimum, these issues include:

* Which sections of the road, if any, will be paved ?
* Which sections of the road, if any, will be graveled ?
* What will be the width of the completed road surface, and of the subbase for the road ?
* To what extent will the existing vertical and horizontal alignment and crosssection be followed ?
* Where, if at all, will deviations from the existing alignment be allowed ?
* How large will the protected road corridor be and where are its boundaries ?

In addition, a map--available to the public prior to any public hearing--should detail, mile by mile, the road construction activities described in SB 2265.

Only in this way will SB 2265 meet the intent of Congress and provide a fair opportunity for public review of the Bill's effect.

2. Provisions for reversion of Burr Trail jurisdiction to the State of Utah are unacceptable and should be stricken from the Bill.

As written, the Bill would authorize transfer of jurisdiction over the road from the NPS to the State of Utah under a vague provision theoretically intended to assure NPS fulfillment of the purposes of the Act. This provision is wholly unacceptable and should be stricken from the Bill.

There is certainly no assurance that the State of Utah could administer the Burr Trail or the purposes of the Act any better than the NPS. In fact, it is highly improbable that the State could even begin to do so. Furthermore, some local officials in Utah undoubtedly see the "reverter" provision as a way to eventually pave the entire road, after jurisdiction "reverts" to the State.

3. The provision for transfer of 100 acres/mile of BLM lands to the NPS is inadequate to protect the scenic, recreational and wilderness values of the Burr Trail region.

SB 2265 does not define the purpose of transferring 100 acres/mile of BLM lands to the NPS along the Burr Trail. The Bill should make clear that the transfer of this land is not intended to allow deviation of road construction from the existing alignment.

If the land is for the purpose of establishing a protected natural zone or scenic corridor, the Bill should specifically say so.

4. SB 2655 fails to prohibit commercial hauling on the "Burr Trail National Rural Scenic Road"

Proponents of "improving" the Burr Trail argue that Burr Trail road construction will enhance tourism in the region and that the road represents an important link in tourism traffic between Utah's national parks. SB 2265 itself would establish the Burr Trail as a NPS "National Rural Scenic Road."

Commercial hauling--which could endanger the safety of travelers on the road and impair their aesthetic enjoyment of the area--is inconsistent with the purpose of promoting tourism travel on the road and protecting its rural character. Furthermore, commercial hauling is likely to result in costly damage to the Burr Trail's condition and increase the costs of maintaining the road -- to be borne by NPS. Other national park areas prohibit the use of commercial vehicles on park roads to protect visitor safety and visitor enjoyment of the parks' natural settings.

5. SB 2265 makes NPS jurisdiction of the Burr Trail discretionary -- dependent on the State of Utah and Interior Secretary agreeing on a contract and certifying that adequate lands and funds are available. This is not acceptable.

Current provisions of SB 2265 would allow either the State of Utah or the Secretary to defeat Park Service jurisdiction by refusing agreement to the "contract" it requires, or by refusing to "certify adequate lands and funds." This is not acceptable and not consistent with Congressional intent. The Bill should assure that appropriated funds are used only if the road is "improved" and retained under NPS jurisdiction. Instead of providing that the road shall not be established unless the conditions are met, it should provide that "neither the authorization Act nor any appropriation therefor shall be effective" unless the conditions are met.

6. SB 2265 fails to assure that road construction materials will not be taken from wilderness study areas, lands under wilderness appeal, lands adjacent to Capitol Reef National Park, or lands visible from the Burr Trail.

IV. MAJOR CRITICISMS OF THE "DRAFT GRANT AND CONTRACT" BETWEEN THE STATE OF UTAH AND THE NATIONAL PARK SERVICE RELATING TO THE ESTABLISHMENT, OPERATION AND ADMINISTRATION OF THE BURR TRAIL SCENIC ROAD

NPCA provides the following specific comments on the "draft contract" related to SB 2265. The comments are addressed to the only draft available to NPCA, dated 3/21/86.

These comments are offered in addition to the general criticisms of the road construction activities proposed under this contract and the specific criticisms of SB 2265 offered above.

1. The road construction activities which would be approved by S 2265 are excessive, unnecessary, environmentally destructive and an imprudent expenditure of limited federal funds. They should not be approved.

See Major Points 1-6.

2. The draft contract fails to requires that any approval of road construction adhere to the existing vertical and horizonal alignment and crosssection. The contract fails to specify exceptions although it clearly contemplates them.

The current draft contract provides that "The grade, alignment, and road section shall follow the existing as closely as possible subject to the standards outlined in the 'Park Service Road Standards' in existence or as may be amended." This is inadequate to meet public concerns about how road construction could affect the scenic and wilderness values of surrounding park and BLM lands.

NPS road standards allow widths as great at 24 feet or more, depending on the purpose of the road and the number of vehicles using the road daily. Furthermore, NPS standards generally recommend a 4:1 edge slope which would result in approximately 3 foot shoulders. These widths represent a major expansion of the existing width of the Burr Trail (9-15 feet) with accompanying change in the character of the road and related environmental consequences..

3. The provision in the draft contract allowing "modifications" to "surface requirements, grade, alignment, road section and hydraulic structures as may be necessary" is totally unacceptable and should be stricken.

The modification provision defeats any other provisions requiring adherence to existing alignment. Extensive engineering work has already been completed on the Burr Trail. (The State of Utah spent $600,000 on such engineering work.) Proponents of road construction know where they favor modifications. These modifications should be specified and subjected to full public review of the need and appropriateness of such measures prior to enactment of any Bill.

4. Any provision allowing "reversion" of Burr Trail jurisdiction to the State of Utah should be stricken from the contract.

(See #2 under "Criticisms of SB 2265.")

Any proposed "reverter" provision should be provided in advance for full public review at public hearing. At this time, the proposed provision is not available.

5. Commercial hauling should be prohibited on the Burr Trail to protect the safety of travelers and their aesthetic enjoyment of the road.

(See #5 under "Criticisms of SB 2265.")

6. The contract should recognize the commitment of the State of Utah to transfer state sections adjacent to the Burr Trail to NPS jurisdiction.

(See #4 under "Criticisms of SB 2265.")

7. The "scenic foreground" concept as defined in S 2265 is meaningless.

The draft contract is deceptive in its use of the term "scenic foreground," because there is virtually no land to which it would apply. There is no provision for any lands to be transferred from the state except the immediate right-of-way for the road, whose ownership has not been established. Yet, according to the contract, "scenic foreground" only applies to "those lands transferred to the Secretary from the state."

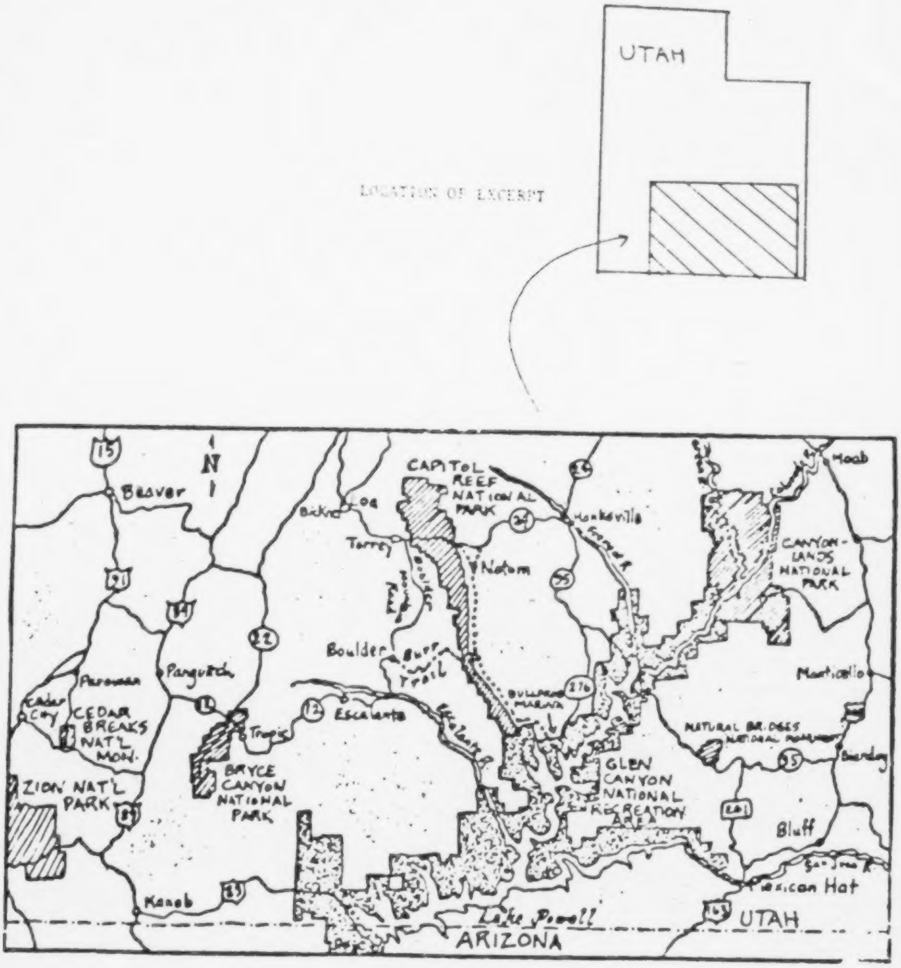
8. Mitigation requirements provided for in the draft contract are inadequate.

The contract should require that environmentally destructive activities be avoided if technically possible, and mitigated where that is not possible. Mitigation should apply to all scenic and natural values of the area, not just the poorly defined "scenic foreground."

9. All elected officials of the State or of any subdivision should be prohibited from receiving any benefits from construction-related contracts or payments, including all contracts and subcontracts for the fulfillment of this agreement.

10. The provision that "Invalidation of any one term or provision of this Contract by judgment or court order shall not affect any other provision, and the remaining provisions shall remain in full force and effect," should be amended to provide that none of the US payment obligations and no provisions for construction shall have any effect if the NPS does not take and retain jurisdiction.

11. The last sentence of the last paragraph merely quotes the sanction provisions of applicable statutes, and is not an appropriate part of the contract.


UTAH
LOCATION OF EXCERPT
N
15
Beaver
21
89
22
Panguitch
Parowan
Cedar City
CEDAR BREAKS NAT'L MON.
ZION NAT'L PARK
BRYCE CANYON NATIONAL PARK
Tropic
12
Escalante
Boulder
Burr Trail
Bicknell
Loa
Torrey
CAPITOL REEF NATIONAL PARK
24
Notom
Hanksville
95
276
BULLFROG MARINA
GLEN CANYON NATIONAL RECREATION AREA
CANYONLANDS NATIONAL PARK
Moab
Monticello
NATURAL BRIDGES NATIONAL MONUMENT
Blanding
261
Bluff
San Juan R.
Mexican Hat
163
Kanab
Lake Powell
UTAH
ARIZONA

Roadless Areas in the Burr Trail Region Recommended for Wilderness By Utah Wilderness Coalition.

White Canyon: White Canyon roadless area is surrounded by the Circle Cliffs. Several dry streams cut the highly erodible Shinarump sandstone formation leaving a maze of twisting slot canyons. The area has dense archeological remains and is home to a small herd of wild horses.

Bullfrog Creek: Bullfrog Creek drains the south flank of the 11,000 foot high Henry Mountains and carves a chasm 1800 feet deep in the brilliantly colored clay bands of the Moenkopi formations. It includes important raptor nesting habitat and flyways.

Steep Creek: The Steep Creek roadless area rises from 4,000 feet at the base of the Waterpocket Fold to nearly 8,000 feet at the ponderosa-forested Impossible Peak. This is one of the wettest locales in the entire arid Colorado Plateau region. It includes seven perennial streams. The abundant wildlife includes important desert trout fisheries, elk, cougar, black bear, beaver, and nesting peregrine falcon.

Mt. Pennel: Mt. Pennel rises to over 11,000 feet and includes four distinct life zones from Upper Sonoran to Hudsonian. It is the most centrally located of the few high mountains in the Colorado Plateau and provides unparalleled 360-degree views of the desert wilderness, including three national parks. The surrounding pediment of grey shale badlands is the critical winter range of America's only hunted wild and free-roaming buffalo herd.

Escalante Canyons: The Escalante canyons are world famous. They make up one of the largest remaining roadless wild areas in the nation. There are literally hundreds of miles of running rivers and streams and deep redrock gorges; waterfalls, arches, hanging gardens, and seemingly endless slickrock deserts. The Escalante Canyons also offer extensive critical habitat for the elusive desert Bighorn Sheep.

Senator WALLOP. Maggie.

STATEMENT OF MAGGIE FOX, SOUTHWEST REGIONAL REPRESENTATIVE, THE SIERRA CLUB

Ms. FOX. Good afternoon, Senator. Thank you for your patience. We appreciate the time it takes to sit and listen to all of us.

I would like to focus my remarks in this few minutes to just the legislation itself rather than the road. I see some very major problems with it. We have here the first of a new classification in the Park Service, a national rural scenic road. And while we really support that concept, there is nothing in the legislation that lays out the standards, the purposes, or the definition, and there is nothing about management included. This would be the first such road of this sort, and we would like to know a little bit more about its reason.

Ostensibly, it is to protect this road into perpetuity as a rural scenic parkway. And yet the status of the road under Park Service jurisdiction appears to be quite tenuous. First of all, it is only granted when a contract is to be signed between the State of Utah and the Park Service, and I think a major flaw in this legislation is that contract is only in draft form, and is not before us to data review either by Congress or by the public, and it seems that that contract would have the major substantive provisions about the design and construction of this road, not only how it would be done, but how many miles, and how wide, and exactly what sections, and what kind of environmental protection would be accorded to the surrounding areas.

If the road is to be designated a national rural scenic road under Park Service jurisdiction, it is to be done so to protect not just the road but the scenic view shed. In fact, as I think you have heard testified today, there are two BLM wilderness study areas that abut right up to the road boundary as it exists today. If in fact the road is to be widened, we should know about that, and we should make a conscious decision that we are going to do that.

None of those conditions or terms are before us, and that makes us feel very uncomfortable. In addition to that, the State is supposed to donate the right-of-way to the Park Service, and then that right-of-way is subject to any terms and conditions of reverter that the State may lay out. Now, we do not know what those terms and conditions are, either, so you grant the Park Service jurisdiction, and you turn over the money to the Park Service and then to the State to construct the road, and we do not know under what terms and conditions this road can continue to stay in Park Service jurisdiction. I think that raises some serious questions for us.

My understanding is that the purpose of authorizing legislation, which is what this is, is to lay out very specifically or as specifically as is possible what is going to happen, and that is missing. There is a draft contract which we have seen, but we do not know if it is finalized. We do not know what it is going to have in it, and we do not know who gets to decide.

If the Park Service has some standards that they feel very strongly about, and the State has separate standards, who wins, and who gets to review that? Do we get an opportunity to comment or participate, or does Congress get an opportunity to comment?

In addition to that, and I beg your patience one more minute, this legislation——

Senator WALLOP. One-half more minute.

Ms. FOX. One-half? Twenty-two seconds. This legislation amends what looks to me like three Federal environmental laws, FLMPA, NEPA, and the Endangered Species Act, and if we are going to do that, then we really ought to be looking at exactly how and when that would be done, and making conscious decisions about that. We find that that raises serious problems for us. There are other fiscal reasons, and we would really like for you to scrutinize it very carefully, as we have.

Thank you.

[The prepared statement of Ms. Fox follows:]

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STATEMENT OF MAGGIE FOX, SOUTHWEST REGIONAL REPRESENTATIVE FOR THE SIERRA CLUB, BEFORE THE PUBLIC LANDS SUBCOMMITTEE OF THE SENATE ENERGY AND NATURAL RESOURCES COMMITTEE, REGARDING S. 2265, ON APRIL 11, 1986.

Mr. Chairman, my name is Maggie Fox and I am the Sierra Club Southwest Regional Representative, a region defined by the Four Corners states of Utah, Arizona, Colorado and New Mexico. Thank you for the opportunity to offer testimony today on S. 2265. The Utah Chapter of the Sierra Club has been actively concerned with the protection of the Burr Trail and the spectacular Escalante canyon country surrounding it for over a decade. We believe that the Burr Trail, as it currently exists, offers an important rural roadway experience in southern Utah that is unique and should be preserved.

After a careful analysis of S. 2265, we find that it simply sets up a shell game, whereby the National Park Service (NPS) is given jurisdiction over the Burr Trail in order to utilize the Fiscal Year 1986 appropriation and future NPS budgets to construct and maintain the paving of the most sensitive sections of the road, subject to unknown conditions which will,we think, inevitably lead to the return of the road to the State of Utah.

I would like to direct my testimony specifically to an analysis of S. 2265. The bill establishes a new unit of the National Park System, the Burr Trail National Rural Scenic Road. This designation is not only new for the Burr Trail, but is a new kind of classification in the National Park System. The only definition or purpose given for this new classification is "to preserve for the benefit of present and future generations a route of unique rural character through an area of outstanding scenery...." While we agree that that is a laudable and important purpose, there is no further edification in the bill itself or in the opening statement of Senator Garn, the bill's sponsor, of why this road is of "unique rural character" and how this new classification will lead to its preservation for "present and future generations."

We agree that the Burr Trail is not an ordinary dirt road. In fact, it cuts through some of the most remarkable slickrock canyon country in the world and is surrounded on all sides by more than a million acres of spectacular roadless lands including Capitol Reef National Park, Glen Canyon National Recreation Area and three Bureau of Land Management Wilderness Study Areas (WSAs). But none of this surrounding country is referred to in the legislation as part of the reason to create a new unit of the National Park System.

Further and more important, there is no commitment to protect this rural roadway into perpetuity. There are two contingencies which indicate that permanent National Park System jurisdiction is uncertain. First, the status of the road as a unit of the National Park System is dependent on the signing of a contract between the Secretary of the

Interior and the state of Utah certifying the availability of funds and land. If the funds and land are unavailable for some reason, then it appears that the NPS would not have jurisdiction. Second, in Section 3(b), the Secretary is authorized to accept a donation from the State of a right-of-way (ROW) for the road subject to any reverters or conditions "consistent with construction, administration and management of the road." The December, 1985 Appropriation stated that if the NPS failed to maintain the road, as provided in an agreement that is not a part of this legislation, the ROW reverts to Garfield County. Since none of these terms are laid before the Congress in this legislation, we are unable to review those conditions and their effect on the permanency of this new designation. Thus, the status of the Burr Trail as a National Rural Scenic Road in perpetuity appears quite tenuous.

The purpose of S.2265 is to act as authorizing legislation and the Congressional scrutiny and public review that such authorizing legislation entails before the $8.1 million appropriation for road construction activities on the Burr Trail can be released. Acknowledging the "cart before the horse" nature of this process, it is still necessary that authorizing legislation be such -- it must address the major substantive design and construction questions of this proposed expenditure. Instead S. 2265 defers all these major issues to a contract which exists now only in draft form and is not part of this legislation. The contract is therefore not subject to any Congressional or public review. That is a fundamental flaw in the legislaiton.

There are important questions left unanswered regarding the design and construction of this road and interpretive facility such as: How much of the road is to be paved? Where? Under what conditions and standards? How wide is the road to be? Will the construction project be within the road's existing alignment? What design and maintenance standards will be used? There is significant difference between the State and the NPS regarding roadway design standards and protections. Who decides? If the contract is between the NPS and the State and there is to be no Congressional oversight, who makes the final decisions? What happens if there is a stalemate over a certain part of the contract?

Without the contract appended to the bill in its final from, this legislation does not meet the purpose of authorizing legislation.

The legislation provides for the transfer of funds from the Secretary to the State of Utah for "accomplishing the design, contracting and construction of the Road," but S.2265 is silent about how that money is spent specifically. The only certainty is that the funds will not be spent on the acquisition of land. How much will be spent on construction and how much on the interpretive facility? Under the same clause laying out the contractual framework (which is missing entirely in the debate here today), the Burr Trail would only become a unit of the National Park System when a contract is signed which certifies that "adequate land and funds are available to fulfill the purposes of the Act." If Section 1(b) and Sections 5 and 6 are read together, then the bill authorizes the expenditure of funds to execute the road construction activities and the interpretive center by turning over the funds to the state of Utah, but the Burr Trail is not established as a unit of the Park system unless and until the Secretary has entered into a contract with the State. Do we take this to mean that the purpose of S. 2265 is to release the appropriated funds, but if the NPS is unable to provide the funds to continue to maintain the road in a manner sastisfctory to the state, (maintenance costs which you have heard in testimony today are quite high), that the Burr Trail either does not become a unit of the National Park System or if it has, that it reverts back to the jurisdiction of the state of Utah? Either scenario is unacceptable.

While there is insufficient language in this legislation establishing the purposes and definition of a National Rural Scenic Road, the Utah state legislature has not even discussed this concept. Thus, there is no assurance that the State would administer the Road to preserve its "unique rural character" which is the only stated purpose of this legislation and designation.

The important issue of whether and under what conditions the Road would revert from NPS jurisdiction to the State is only vaguely addressed in the legislation. Under Section 3(b), the Secretary may accept a donation of the Road right-of-way(ROW) from the State subject to "such reverters and conditions as the Secretary determines may be consistent with the construction, administration and management of the Road." That is completely unclear. The language of the FY 1986 Appropriation provided that the ROW would revert to Garfield County if the NPS failed to maintain the road pursuant to the terms of a cooperative agreement to be developed by the NPS, the BLM, the State of Utah and Garfield County. None of those terms and conditions are before us in this legislation. We would submit that an issue as fundamental to the future protection of the Road as the reversion of the ROW and the subsequent loss of NPS jurisdiction over the Road must be clearly and carefully delineated in the legislation so that both Congress and the public can review them for their impact and purpose. Currently, the only internal consistency in this legislation is that the Burr Trail would be designated a National Rural Scenic Road with little definition or purpose and no management standards and could lose its designation under unknown terms and conditions.

Sections 2, 3, and 4 amend several federal environmental laws including the Federal Land Policy and Management Act (FLPMA), the National Environmental Policy Act (NEPA) and the Endangered Species Act (ESA). Section 2 provides that the Secretary of Interior shall transfer BLM land to the NPS for the interpretive center, including land for appurtentant roads, trails and parking, which the BLM is authorized to acquire by exchange. In other words, BLM is to go out and exchange BLM land elsewhere for land in the vicinity of Boulder, Utah, for the interpretive facility "notwithstanding any other provision of law." Therefore, BLM lands which have been set aside for other purposes may lawfully be transferred for this purpose to the NPS. Where are these lands and is there to be any public review of such a process?

Under Section 3(a)(1), the Secretary must transfer "an average of one-hundred acres per mile" along the route of the Burr Trail. Two BLM

WSAs, Steep Creek and North Escalante Canyon/the Gulch, border the Burr Trail. This language would allow the Road to be constructed inside the existing boundaries of the WSAs which adjoin much of the Trail route to be paved under this legislation. Under Section 603 of FLPMA, new road construction and development activities are prohibited within WSAs, to preserve Congress' prerogative to decide whether or not to permanently protect these areas as wilderness. The effect of Section 2 and 3 is to amend FLPMA to allow degradation of the WSAs along the Burr Trail. Even if the rest of the legislaiton were not flawed, this intrusion is entirely unacceptable to conservationists.

Section 3(a)(2) further orders the Secretary to transfer BLM lands to the NPS so that road construction and maintenance materials are made available to the State, also "nothwithstanding any other provision of law." Thus, BLM can choose WSA land or land managed for other sensitive purposes for digging up gravel or fill for the road construction activities, including land just within the viewshed of the roadway, despite its effect on the character of the road or the surrounding wild land.

A final important problem with S. 2265 is the provision which allows for traffic by any "livestock owners, licensees, permitees, lessees" or other existing rightholders. The Burr Trail is thus not protected as a rural scenic road under this legislation; instead it is defined as a commercial hauling road. Despite the fact that the clear intent of the NPS is that the Burr Trail not be used as a commercial hauling road, this legislation provides otherwise. Which is it?

Conservationists and citizens of Utah have many substantive reasons why it is not necessary to further improve or enhance the values of the Burr Trail, as you have heard in the earlier testimony today. But even if we were to accept (which we emphatically do not) that there were a need for such improvements, we could not support S. 2265. This legislation specifically sets out to provide for federal funds to be turned over to the NPS, and then to be turned over to the State of Utah for construction of the Burr Trail without addressing any of the major substantive design, construction, mitigation and protective issues. Instead, it leaves those provisions to an unseen and unreviewed contract, which can be nullified by the failure of the NPS to perform according to conditions that are not specified in the legislation and are not subject to Congressional or public review. Further, the intent of preserving the unique rural character of the road is undermined by allowing for adjacent WSA lands to be roaded and used to gather and dig up construction materials for the "improvement" of the Burr Trail.

In essence, S. 2265 seeks to designate the Road as a unit of the National Park System in Section 1 and sacrifice it to serious environmental degradation in the remaining sections. Let's save the Federal government some money and save some magnificent country by leaving the Burr Trail as it is today.

Senator WALLOP. Thank you.

Mr. Knuffke.

STATEMENT OF DARRELL R. KNUFFKE, CENTRAL ROCKIES REGIONAL DIRECTOR, THE WILDERNESS SOCIETY

Mr. KNUFFKE. Thank you very much, Mr. Chairman.

My name is Darrell Knuffke, and I am the Central Rockies Regional Director for the Wilderness Society. I would like to just submit my statement, and use my time this morning to try to clarify for the record what I think may be some confusion.

In his statement this morning Senator Garn mentioned that during 1972 hearings in Canab, UT, the Wilderness Society, the Sierra Club, and the Escalante Wilderness Committee, all three endorsed the improvement and upgrading of the Burr Trail. I think it is important that we understand exactly what was said during those hearings and the context in which it was said.

Specifically, we were commenting in those days—this was much before my time with the Wilderness Society—on alternatives to a $60 plus million road over the Kaiparowits Plateau. We opposed it. Senator Garn's statement said that he agreed with that analysis.

What we actually said was not that we wanted the Burr Trail paved—we also opposed that—but that we wanted it improved and upgraded. It has repeatedly over the years been improved and upgraded to the point that it is passible and fairly comfortably now in a family sedan. I have done it myself in precisely such a vehicle. It may well be that somebody in the Wilderness Society did call for paving. I cannot find any evidence of it in the record. If that is the case, I would simply have to say, sir, that over the last 14 years we have changed our minds.

That really concludes the comments I have to make.

Senator WALLOP. Well, let me just make an observation. As I see it, nobody is talking about paving it from one end to the other. That is not the proposition that is in front of this committee.

Mr. KNUFFKE. That is correct. What we are saying, though, Senator, is that this proposal would pave precisely the two most scenic and most environmentally sensitive areas.

Senator WALLOP. I understand that. There is—perhaps you disagree with it, but there is an environmental reason for doing that, which is, there is a fair amount of erosion from the use that is on it contemporaneously.

Mr. KNUFFKE. I understand that erosion can be a problem, Senator. We also have done, you know, considerable digging into it, and I think we are persuaded that there are ways to improve the condition of that road and handle erosion problems without going to the lengths that this bill proposes. Hardening streambottoms is one example.

Senator WALLOP. Let me ask you this. What do you say to the people down there who have been steadfastly denied each of the initiatives that they have come up with?

Mr. KNUFFKE. Senator, I am from a small town, and I understand the importance of economic development to it. I guess I would question the notion that they have been steadfastly denied. I think one of the things that has been mentioned but almost passingly this morning is the fact that there was recently completed at some considerable cost an all-weather road over Boulder Mountain that serves precisely these communities, and it also provides access to the very national parks that we are talking about providing access to.

Senator WALLOP. Well, as I look at the map, and I think you would fairly argue that that is not 100 percent true——

Mr. KNUFFKE. It seems so to me. You may have a different perspective, Senator. I guess I do not see how it fails to be true.

[The prepared statement of Mr. Knuffke follows:]

THE WILDERNESS SOCIETY

STATEMENT ON S.B. 2265
SUBMITTED TO THE SUBCOMMITTEE ON PUBLIC LANDS,
RESERVED WATER AND RESOURCE CONSERVATION
OF THE
ENERGY AND NATURAL RESOURCES COMMITTEE,
UNITED STATES SENATE

Submitted by:

Darrell R. Knuffke
Central Rockies Regional Director
The Wilderness Society
1720 Race Street
Denver, Colorado 80206

1400 EYE STREET, N.W. WASHINGTON, D.C. 20005
(202) 842-3400

My name is Darrell Knuffke. I am the Central Rockies Regional Director for the Wilderness Society in Utah and Colorado. The Wilderness Society is a national conservation organization with more than 140,000 members--over 800 of them in the State of Utah.

I appreciate the opportunity to testify on Sen. Garn's bill, S.B. 2265, which would provide for paving and graveling the Burr Trail in southern Utah and making it part of the National Park system as a National Rural Scenic Road. The Wilderness Society must oppose the legislation, Mr. Chairman. On its face, S.B. 2265 appears to be a much scaled down version of earlier proposals to pave the entire 66-mile length of the Burr Trail. We believe that the bill is not so much a replacement of the earlier proposal as a recasting of that proposal into a phased project. As such it is no less unnecessary, no less fiscally wasteful and no less environmentally destructive. And it is a bill no less designed to suit development needs than its predecessor, despite the fact that it masquerades as a measure to protect the public lands. It is billed as a compromise but it is no compromise.

The Burr Trail traverses one of the most spectacular regions in the country, including nearly one million acres of roadless lands. Among them are three BLM wilderness study areas. Between the bill as introduced and the draft contract--some version of which will both accompany and accomplish the bill--the measure is, in fact, a backdoor amendment to the Federal Land Policy and Management Act of 1976. FLPMA's Section 603 provides that once lands are set aside as wilderness study areas, their boundaries are inviolate. S.B. 2265 would permit the violation of those study area boundaries "as may be necessary" for surface requirements, grade, alignment, road section and hydraulic structures.

If that were the bill's only flaw, The Wilderness Society would be forced to oppose it. Unfortunately, it is not.

There are seven state sections along the Burr Trail. Utah, like other western states, requires that its public lands be managed for highest and best use. That requirement virtually guarantees that the lands will be subject to mineral or commercial development--neither of which is appropriate cheek by jowl with a unit of the National Park System. The bill makes no provision for acquisition of the state sections to ensure compatible use and no provision for managing the important viewsheds anywhere along the trail.

The bill carefully protects the right of holders of mineral leases along the trail to use it--even after it assumes park status. In short, that means a road in a unit of the National Park system could become a commercial haul road for tar sands development and coal strip mining. Commercial hauling is not allowed on other roads in the parks. To the extent the proposed national rural scenic road would, in fact, boost tourism it would cause increased use and increased impacts in a wild, remote region unmatched in the country. But it would provide no corresponding increase in protection for the unique resources that exist there.

In summary, Mr. Chairman, today the Burr Trail is safe--safe for motorists in the family sedan and safe from commercial hauling, haphazard roadside development and a level of use no one can cope with. What it is not safe from is legislation such as S.B. 2265 which purports to protect it.

Senator **Wallop**. Well, thank you all very much.

Mr. **Knuffke**. Thank you, sir.

Ms. **Fox**. Thank you.

Mr. **Knuffke**. Senator, may I please request permission to submit for the record a letter from Ruth Frear, who is the chairman of the Burr Trail Committee for the Utah chapter of the Sierra Club, which goes into more detail about this recommendation?

Senator **Wallop**. Yes.

[The letter referred to follows:]

ARCHES NATL. PARK by Karen Vendell

SIERRA CLUB Utah Chapter
615 South 300 East
Salt Lake City, UT 84111

16 June 1984

Senator Jake Garn
Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Garn:

This letter is to clarify a point being made by your office and other proponents of paving the Burr Trail.

At the Glen Canyon National Recreation Area Act hearing in Kanab on May 27, 1972, at which I was present, representatives of the Sierra Club testified in support of a "canyon country parkway system" as an alternative to a proposed new highway from Glen Canyon City to Bullfrog Basin. Part of that parkway system included the existing Boulder Mountain road from Boulder to Grover and the Burr Trail from Boulder to Bullfrog.

Sierra Club proposed that "a Canyon Country Parkway System be designated and improved where necessary, utilizing existing roads," pointing out that this would be "a better use for tax money, better use of the land, and more benefits for both tourists and local residents." Club spokespersons supported improving or upgrading the Burr Trail, not paving it--and it has been improved and upgraded several times since then.

Last February I participated in a field trip to the Burr Trail with Steve Creamer of Creamer & Noble Engineering, a firm under contract to the State of Utah and the Five County Association of Governments to conduct a feasibility study of reconstructing the Burr Trail. We drove the length of the Burr Trail and Mr. Creamer pointed out a number of places along the road where major improvements have been made over the years. He also noted the sites of new bridges, straightening of S-curves, and major realignments which would come with paving the road and which would unalterably change the backcountry character of the road.

I have driven the Burr Trail numerous times over the past 15 years. The upgrading that has been done is obvious. The road used to be a pitted, rocky, potholed, often dangerous washboard. Now it is a fine dirt road, impassable to passenger cars only in the worst of wet weather conditions. The road is in much better condition now than it was in 1972 when the GCNRA hearing was held in Kanab.

The point made by the Sierra Club in 1972 was that there were existing roads already utilized which could be designated as a logical system of roads connecting major parks and recreation areas and other natural areas in Southern Utah--roads not necessarily all paved but "improved where necessary."

The Burr Trail was never meant to be a highway. It is a good backcountry road which traverses highly scenic and environmentally sensitive country. It is used by travelers who want access to the more remote and rural lands in the Capitol Reef-Circle Cliffs area and three Bureau of Land Management Wilderness Study Areas in the Escalante River drainage. The backcountry character of the Burr Trail adds to the experience sought by these travelers.

If there has been a major inconsistency in this whole issue, it has been on the part of the promoters of the "Grand Circle Tour". The paving of the Boulder Mountain Road completes the network of roads in this proposal. Even in as late as the 1983 edition of the "Grand Circle Adventure", the Burr Trail is not a part of the "Grand Circle" road network; the Burr Trail does not even appear on its map, nor is it mentioned in the text.

The Sierra Club has consistently supported a comprehensive, unbiased study of transportation needs as they relate to a stable recreation- and tourist-based economy for this region of Utah. We think the money requested for reconstructing and paving the Burr Trail would be better spent on a study like this rather than on one more intrusion into our backcountry with no evidence that the promised rewards will materialize.

We have appreciated the opportunities during the past year to meet with your staff on this topic, and we hope to receive soon a copy of the final engineering study your office promised to make available to us.

Sincerely,

Ruth A Frear

Ruth A. Frear
Chair, Burr Trail Committee

Senator WALLOP. Moving to S. 1413, Mr. David Burwell, acting director of the Rails-to-Trails; Mr. Robert H. Mullens, Lodi, CA; and Mr. Larry Telford.

Mr. Mullens.

Mr. MULLENS. Mr. Chairman, may I respectfully ask to be heard last?

Senator WALLOP. Very well.

Mr. MULLENS. Thank you.

Senator WALLOP. Then who wants to be heard first?

STATEMENT OF DAVID BURWELL, EXECUTIVE DIRECTOR, RAILS-TO-TRAILS CONSERVANCY

Mr. BURWELL. I will be glad to step forward.

Mr. Chairman, my name is David Burwell. I am executive director of the Rails-to-Trails Conservancy, a nonprofit organization formed in 1985 to preserve appropriate abandoned and about to be abandoned rights-of-way for recreational and conservation purposes. I will summarize my testimony. I ask that the full testimony be included in the record.

Senator WALLOP. May we have quiet in the back of the room, please?

Mr. BURWELL. The Conservancy represents a coalition of trail users, including Ski Industries America, the American Horse Council, National Wildlife Federation, National Recreation and Parks Association, and people interested in trails. We also appear on behalf of the Heritage Trails Fund, which is a national organization based in Concord, CA, interested in the preservation of trails, parks, and open space primarily for pleasure horse use.

While the Rails-to-Trails Conservancy supports the intent of this legislation, we have two concerns with its specific language. First is the question of compensation, which was mentioned by the Department of the Interior. The second and for our purposes more importantly is the issue of recreational access.

This bill would sever the continuity of what may be the most historically significant transportation corridor in the United States, the route of the transcontinental railroad. By eliminating all Federal property interests outside the actual land used for rail trackage, the only way the public could gain access to the transcontinental trail would be by boxcar.

The Federal interest in both compensation and the preservation of the transcontinental right-of-way could be provided through reconveyance to the Federal Government of sufficient land within the right-of-way to construct a recreational trail. Such a trail would be an attractive recreational facility, even if only limited to California. However, the line could eventually be developed all the way from Omaha, NE, to San Francisco, CA.

In our judgment, reconveyance to the Federal Government of sufficient property to create a trail between the railroad right-of-way and adjacent properties would be an appropriate mechanism for solving both the compensation and recreational access issues. We have discussed this with the other witnesses, and I have looked at maps of Tracy, CA, where it seems to be the biggest problem, and since there is already a road, a public road next to the trail, next to the railroad right-of-way, this seems to pose little, if any, problem for the adjacent property owners.

Mr. Chairman, the right-of-way in question is one of the most historical routes in the West, and it does have a tremendous impact on the States it traverses. To take but one example, this right-of-way is responsible for the establishment of the city of Cheyenne, WY, which began as a camp for the railroad construction crew members. I think that was in 1867. A map of the entire right-of-way is included in our testimony.

The specifics of such a reconveyance—I see my time is done—are outlined in our testimony, and I will not go into them in detail. However, the general outline is that the transfers be validated in exchange for a reservation to the public of an easement 50 feet wide on either side of the right-of-way for trail purposes.

As a footnote, we want to emphasize that we are not asking the committee to create a transcontinental trail in this legislation. All we are asking is that the committee recognize the important recreational issue raised by this bill, and that the possibility of creating a transcontinental trail in the future not be foreclosed. Reconveyance to the United States of a recreational trail easement would not establish a trail, but it would keep our options open.

Thank you.

[The prepared statement and a subequent submittal by Mr. Burwell follow:]

RAILS
-TO-
TRAILS
CONSERVANCY

Testimony of David Burwell, Executive Director, Rails-to-Trails Conservancy, Before the Subcommittee on Public Lands, Reserved Water and Resource Conservation of the Senate Energy and Natural Resources Committee on S. 1413 and H.R. 2607, the "Railroad Right-of-Way Conveyance Validation Act of 1985:

April 11, 1986

Mr. Chairman, my name is David Burwell. I am Executive Director of the Rails-to-Trails Conservancy, a nonprofit organization formed in 1985 to preserve appropriate abandoned and about-to-be-abandoned rights-of-way for recreational and conservation purposes, including trails. I appreciate this opportunity to testify on S. 1413 which, like its House companion, H.R. 2067, would validate the conveyances of certain railroad rights-of-way in California by Southern Pacific, and its predecessor Central Pacific, to certain private grantees. Under the terms of the 1862 railroad land-grant statute conferring this right-of-way, the land in question could revert to federal or local governments for public use upon cessation of railroad use but for the validation.

While the Rails-to-Trails Conservancy supports the intent of this legislation, we have two concerns with the specific language of S. 1413. First, this legislation does not provide for any compensation to be paid to the federal government by either the Southern Pacific or the private transferees in

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return for validation of these transfers and the elimination of all public interests in the surface estate of these properties.[1] The U.S. Department of Interior shares our concerns over the lack of compensation.[2] Second, this bill would sever the continuity of what may be the most historically significant transportation corridor in the United States--the route of the transcontinental railroad.

The federal interest in both compensation and the preservation of the transcontinental right-of-way could be provided through reconveyance to the federal government of sufficient land within the right-of-way to construct a recreational trail. Such a trail would be an attractive recreational facility even if limited only to California. However, the line in question could eventually be developed into a national transcontinental trail all the way from San Francisco, California to Omaha, Nebraska. Such a trail would be a national asset of equal importance to the Appalachian Trail and other trails in our National Trails System. We will first explain the potential benefits of such a trail to the nation and then address the specifics of how such a transfer could be accomplished for the benefit of all interested parties.

1/ A railroad may not diminish the width of its federal right-of-way by purported abandonment, except for public use. See, e.g., Allard Cattle Co. v. Colorado Southern Railway Co., 187 Colo. 1, 530 P.2d 503 (1974). Permission of such diminution is reserved solely to the federal government.

2/ Letter of James E. Cason, Deputy Assistant Secretary, U.S. Department of Interior, to Morris K. Udall, November 21, 1985.

The Benefits of Trails

Abandoned and about-to-be-abandoned railroad rights-of-way make excellent recreational and conservation facilities. They readily convert into trails which are useful for a wide range of outdoor recreational activities, including hiking, bicycling, horseback riding, cross-country skiing, wildlife observation, and nature interpretation. In addition, trails provide valuable wildlife habitat and, in western states such as Wyoming, they provide otherwise almost nonexistent access to public lands for hunters, hikers, and campers.[3/]

The desirability of trails for recreational purposes has long been recognized. In the words of the Senate Report to the National Trails System Act:

> Trails represent a unique opportunity and yet a practicable and low-cost method of satisfying the demand for outdoor recreation for our citizens. By their nature, they afford a low-concentration dispersed type of recreation that is much sought after today. Trails are a means to some of the most beneficial kinds of exercise and enjoyment of nature -- walking, hiking, horseback riding, and cycling. Trails enable people to reach prime areas for hunting, fishing, and camping; they lead to areas prized by students of nature and history; they are used by scientists, artists and photographers, they help to satisfy the craving many people have for solitude and the beauty of untrammelled lands and water.[4/]

Railroad Rights-of-Way as Trails

Railroad rights-of-way have long been recognized as providing exceptional opportunities for trail conversions. Right-of-way

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[3/] See "Public Lacks Access to Much Public Land . . .," Wall Street Journal, p. 1, col. 1 (Jan. 2, 1986).

[4/] S. Rep. No. 1233, 90th Cong., 2d Sess. at 2-3 (1968).

easements are already assembled. The terrain they traverse is generally level and easily accessible; and bridges, trestles, and culverts are already in place. At the same time, there is an undeniable scarcity of outdoor recreational facilities to meet the needs of our growing population. Conversion of abandoned or about-to-be-abandoned railroad rights-of-way to trail and other recreational and conservation use would go a long way toward addressing the need for additional recreational facilities. Several federal statutes have been enacted to encourage the development of abandoned or about-to-be-abandoned railroad rights-of-way into trails.[5/]

The Special Availability of Western Railroad Rights-of-Way for Trail Use

Virtually all railroad rights-of-way west of the Mississippi are derived from federal land grants. In most such situations, the railroad owns only a railroad right-of-way easement over the land in question. Once the railroad use ends, the entire right-of-way is subject to reversion. Under the Act of March 8, 1922, which is generally applicable to such rights-of-way, the reversion is to adjacent landowners or, if a public highway (including public

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[5/] *See*, *e.g.*, 16 U.S.C. §1248(b) (the ICC must cooperate with the Interior Secretary "in order to insure, to the extent practicable, that any such [rights-of-way] having values suitable for trail purposes may be made available for such use"); 16 U.S.C. §1247(d) (the ICC shall order transfer for interim trail use to suitable trail sponsors); 49 U.S.C. §10906 note (report concerning conversion of railroad right-of-way for public use).

trail use)[6] is sought, the reversion is to an appropriate public agency for that purpose.[7] The Act of March 8, 1922, thus provides a ready vehicle for establishing a trail on abandoned railroad right-of-way in the West. However, the Act is triggered only when there has been a legislative or judicial determination of abandonment. Since there has not yet been such a determination with respect to the parcels covered by S. 1413, the 1922 Act is not yet applicable.[8] S. 1413 could arguably constitute such an abandonment, but without reserving any public right to a trail use.

Although government studies indicate that as many as one-third of these rights-of-way are valuable for alternative public recreational use upon abandonment,[9] only a minuscule portion is actually developed for this purpose. In the words of the National Park Service, these rights-of-way "constitute unique resources which cannot be replaced if lost. . . ."[10] Current policies, which allow such loss, result in a tragic waste of an important recreational resource. The loss of our transcontinental right-of-way for trail use would be doubly tragic, for we would lose not only a valuable recreational resource but an important piece of our national history.

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[6] *See, e.g.*, *Stayman v. City of Fort Thomas*, 273 Ky. 309, 116 S.W.3d 649, 651 (1938) (a public pedestrial transportation facility is still a public highway).

[7] 43 U.S.C. §912. A companion statute, 42 U.S.C. §913, provides for railroad assignment of a portion of its easement to a public agency for public highway purposes prior to abandonment, but not to any private interest.

[8] *See* Statement of Arnold E. Petty (Department of the Interior), in H.R. 2067 and H.R. 3266, before the Subcommittee on Public Lands, House Interior and Insular Affairs Committee, Oct. 17, 1984.

[9] *See, e.g.*, National Park Service, Rails-to-Trails Grant Program, *An Evaluation of Assistance Provided under Public Law 94-210 to sponsors in the conversion of abandoned railroad rights-of-way to public and recreational use* at 3 (August 1985).

[10] *Id*.

Mr. Chairman, the right-of-way in question is one of the most historical routes in the West, and it has tremendous impact on the states it traverses. To take but one example, this right-of-way is responsible for the establishment of the city of Cheyenne, Wyoming, which began as a camp for railroad construction crew members.[11]

Attached to our testimony are two period maps of the Pacific Railroad, constructed in 1872 and 1877. These maps reflect the rugged terrain through which the transcontinental railroad runs and depict each small settlement that sprung up along the right-of-way. Most of these towns are now history. But they deserve a place in the story of our country. A transcontinental trail would memorialize these towns, the pioneers who settled them, and the railroads which serviced them. If all federal property interests are eliminated outside of actual railroad trackage, these areas will fade into oblivion.

S. 1413 and the Need to Retain at Least a Trail Easement

S. 1413 would validate certain conveyances of rights-of-way by the railroad to grantees in California. Under the Act of 1862, the railroad enjoys what amounts to an easement over a strip

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11/ R. Riegel, The Story of the Western Railroads 85 (1964).

(extending 200 feet) from the center line of its track. The public enjoys a reversionary interest for trail and highway purposes in all of this land once railroad use ceases. Nevertheless, the railroad purported to convey to private parties parcels covered by the public reversionary interest. The validation at issue here would waive the public reversionary interest without compensation to the public. It would also permanently exclude the public from traversing this historic route except by freight boxcar.

While we certainly sympathize with private citizens who have attempted to acquire a portion of the right-of-way from the railroad, we are also concerned that the public interest in possible trail use of at least a portion of the right-of-way be protected. More particularly, further loss of trail conversion opportunities should be prevented. At the same time, we wish to do so with minimum interference with the expectations of landowners or with the productive use of the right-of-way in question.

In the case of the right-of-way involved here, one solution would be to validate the transfer in exchange for a reservation to the public of an easement -- or fee title, whichever is more suitable for trail use in a given segment -- for trail use of 50 feet on one side or the other of the right-of-way reserved for the railroad. A reservation of 50 feet for public trail use would (1) retain the linear integrity of the right-of-way, (2) open up a continuous corridor for trail development while allowing rail service to continue, and (3) clear title for adjacent landowners. At the same time, it would represent some compensation to the public for validation of the sale by the railroad.

In the longer term, this committee should explore the public interest in recreational use of old federal land-grant rights-of-way generally. There was some discussion in the House of a generic bill to obviate the need for bills such as S. 1413. Such a bill might be a good idea, especially if it protected the public interest in possible trail use and if it contributed to the development of a trans-continental trail.

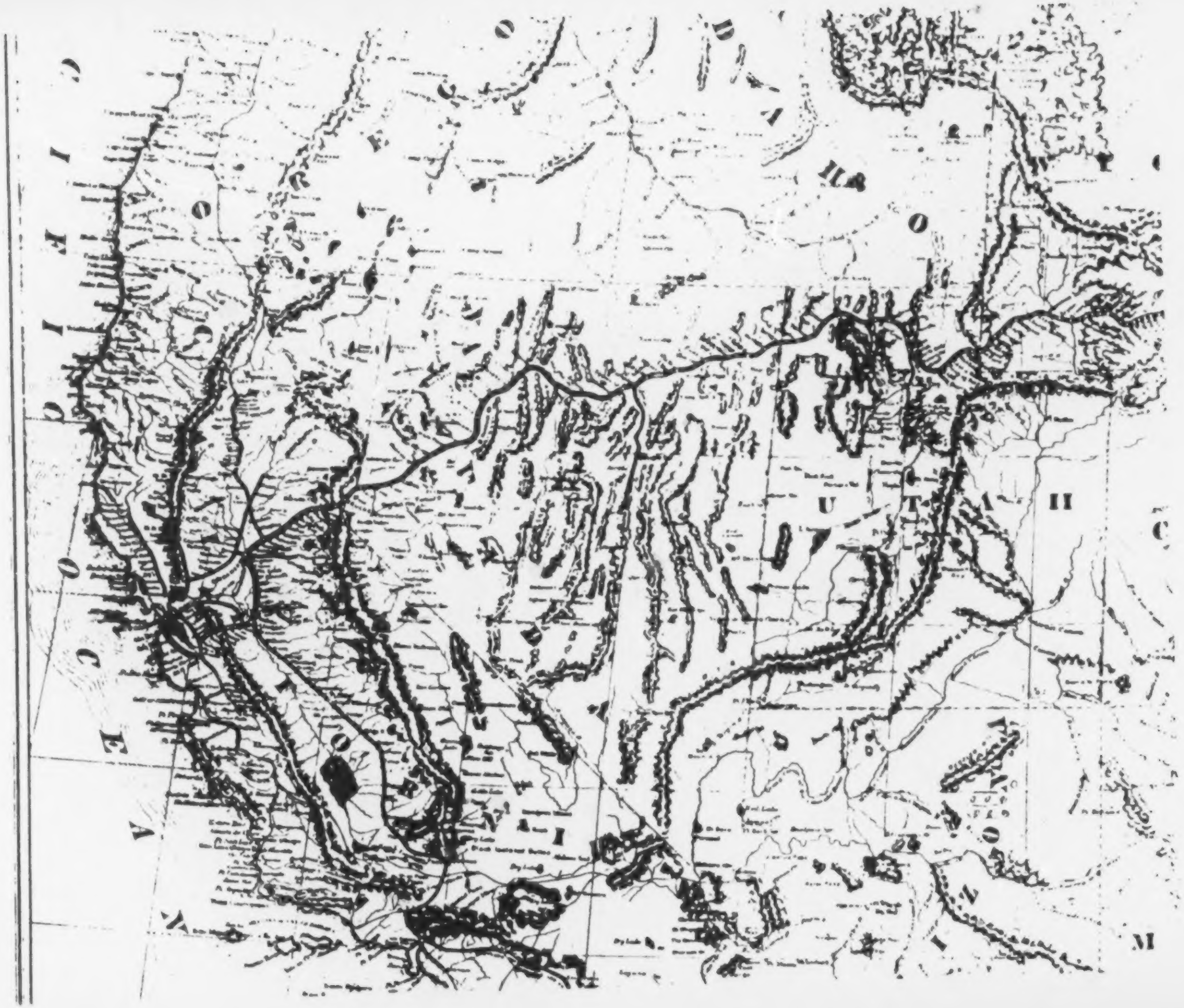
Mr. Chairman, I again wish to express our appreciation for this opportunity to testify. I would be happy to address any questions, and I certainly would be pleased to cooperate with the Subcommittee in exploring the recreational potential represented by these largely unrecognized and under-utilized federal assets. Thank you.

Pacific Railroad

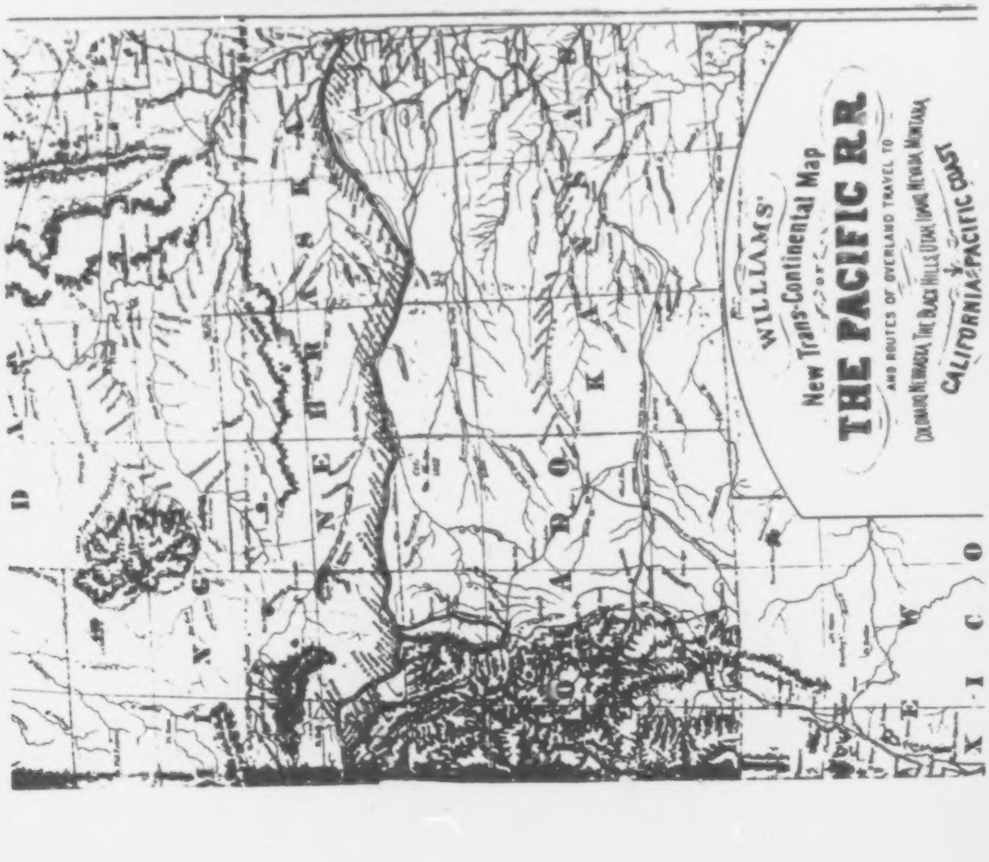
1877

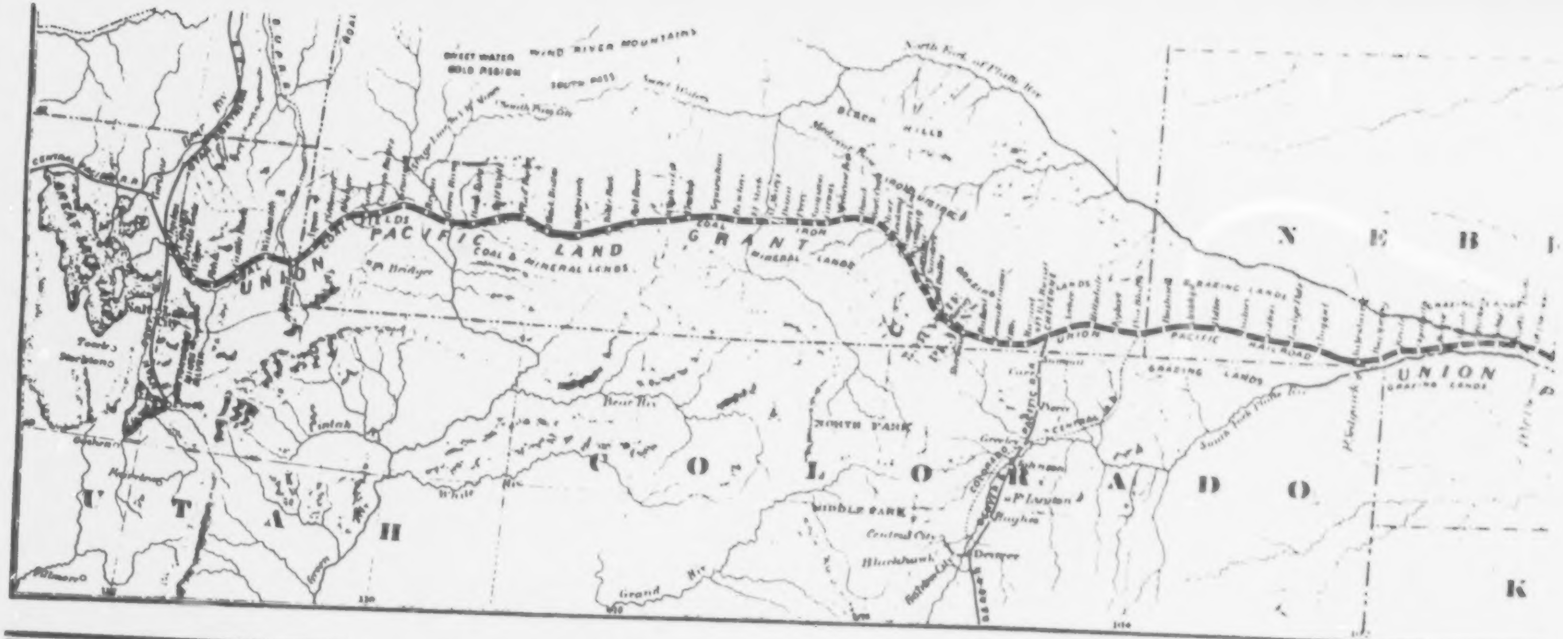
59. **Williams, Henry T.** New trans-continental map of the Pacific R.R. and routes of overland travel to Colorado, Nebraska, the Black Hills, Utah, Idaho, Nevada, Montana, California and the Pacific Coast. c1877. 58 × 93 cm (23 × 36½ in)

An attractive colored map of the western United States, printed by the Osborne photolithographic process, showing relief by hachures, drainage, cities and towns, stage routes, railroads completed and projected. Main lines in heavy black. Tourist and travel information, timetables, and steamship rates are printed on the verso of the map.



Devil's Gate Bridge, Medicine
Bow Mountains, Wyoming
ca 1868


WILLIAMS'
New Trans-Continental Map
of the
THE PACIFIC R.R.
AND ROUTES OF OVERLAND TRAVEL TO
COLORADO NEBRASKA THE BLACK HILLS UTAH IDAHO NEVADA MONTANA
&
CALIFORNIA PACIFIC COAST
NEBRASKA
MEXICO


WIND RIVER MOUNTAINS
SWEET WATER GOLD REGION
SOUTH PASS
North Fork of Platte Riv.
BLACK HILLS
CENTRAL PACIFIC
GREAT SALT LAKE
UNION PACIFIC LAND GRANT
COAL & MINERAL LANDS
COAL IRON MINERAL LANDS
GRAZING LANDS
UNION PACIFIC RAILROAD
UNION GRAZING LANDS
NORTH PARK
MIDDLE PARK
Central City
Denver
Greeley
South Fork Platte Riv.
NEBR
COLORADO
UTAH
K

Union Pacific

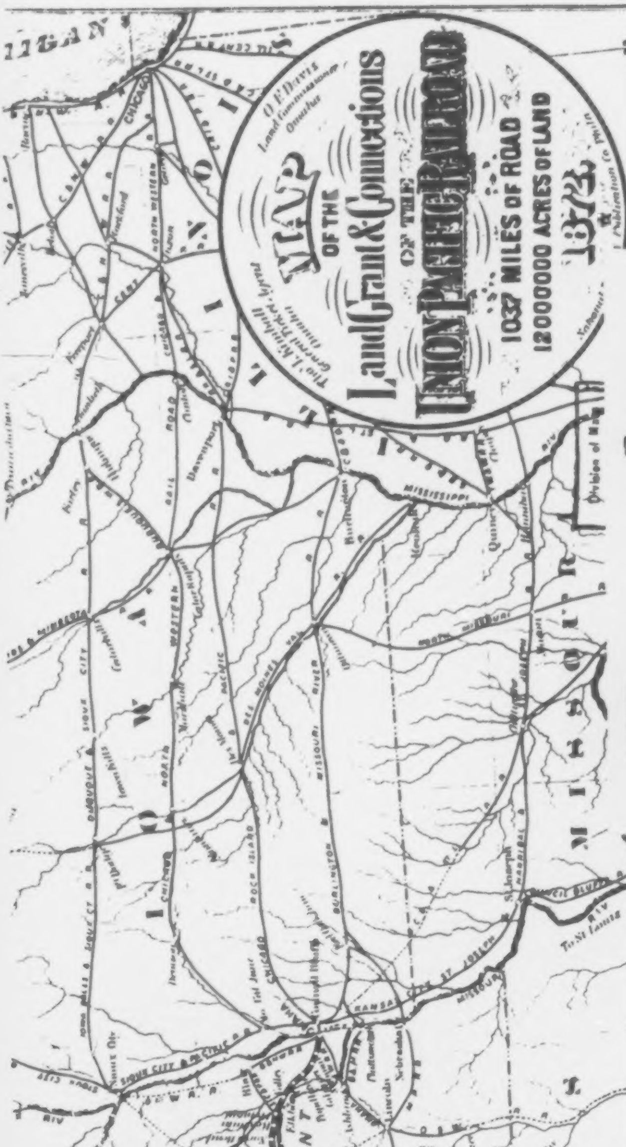
1872

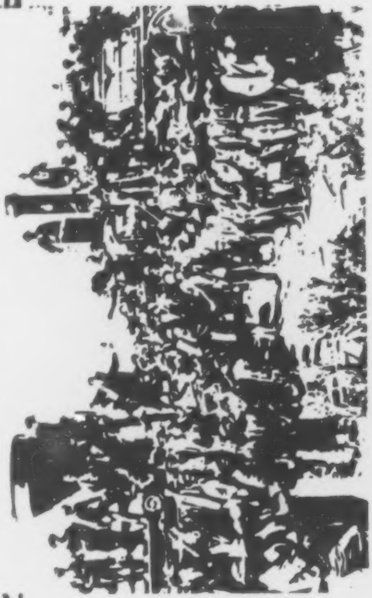
64. National Railway Publishing Company. Map of the land grant & connections of the Union Pacific Railroad, 1037 miles of road, 12 000,000 acres of land 1872 Thos. L. Kimball, General Ticket Agent O. F. Davis, Land Commissioner, Omaha Philadelphia 1872 18 × 70 cm (7 × 27½ in)

A strip map stretching from Chicago to Great Salt Lake, Utah, showing railroad connections and the land grant of the Union Pacific between Omaha, Nebraska, and the lake. Indicates the path of the Union Pacific tracks and its stations, coal and mineral lands, and agricultural and grazing lands. Indicates stage line connections from Bryan, Wyoming, to the Sweetwater gold region in the Wind River Mountains, Wyoming.

On July 1, 1862, the Union Pacific Railroad Company was created by the Pacific Railroad Act. Ground was broken at Omaha in December 1863, and the first rail was laid in July 1865. Thereafter, despite the primitive construction methods available and numerous attacks by Indians, progress was rapid. On May 10, 1869, Union Pacific construction forces met those of the Central Pacific at Promontory, Utah, to complete the country's first transcontinental railroad. The golden spike that symbolized completion of the line is owned by Stanford University and is on permanent exhibition there.

Although Council Bluffs, Iowa, was designated by President Abraham Lincoln on November 17, 1863, as the railroad's eastern terminus, train service between that city and Omaha was not available until the completion of the first railroad bridge across the Missouri River in 1872. Prior to that time freight and passengers were ferried across the river. The original bridge was replaced by a double track bridge in 1887.


MAP
OF THE
Land Grant & Connections
OF THE
UNION PACIFIC RAILROAD
1037 MILES OF ROAD
12000000 ACRES OF LAND
1872
O. F. Davis
Land Commissioner
Omaha
Tho. L. Kimball
General Ticket Agent
Omaha
CHICAGO
MISSISSIPPI
IOWA
ILLINOIS
MISSOURI
KANSAS
NEBRASKA
LAND GRANT
PACIFIC



Golden Spike ceremony at
Promontory, Utah May 10 1869

RAILS
-TO-
TRAILS
CONSERVANCY

April 30, 1986

Tony Bevinetto
Majority Staff Director
Public Lands and Reserved
Water Subcommittee
Senate Energy and Natural
Resources Committee
Room SD-308
Washington, D.C. 20510

Dear Tony:

Thanks for the meeting on S. 1413. Please let me know if Senator Wallop agrees to offer our proposed ammendment.

We also discussed implementation of Section 8(d) of the National Trails Systems Act. I mentioned a case where Section 8(d) had been invoked to frustrate the reversionary interest of an adjacent property owner. The case, Reiger v. the Penn Central Railroad Company, is attatched. In this case, the state court invoked 8(d) to frustrate the property rights of the holder of the reversionary interest, even though the holder received no benefit through continuing the right-of-way in trail use.

Our position is that railroads which own rights of way in fee simple should be treated in the same manner as adjacent property owners. Why should a railroad, which can still put its sub-surface interest to some economic use compatible with trail use (e.g. fiber optics), be treated preferentially to a landowner who, as long as the trail easement remains, cannot?

We are still pursuing our remedies with the ICC on implementation on Section 8(d). If we need a legislative solution, we will be back. Under seperate cover, I am sending Pat Kennedy our draft manual, prepared by our General Counsel Charles Montagne, explaining everything anyone needs to know on pleading Section 8(d) before the ICC. We hope the manual will encourage pleadings that force the ICC to give some substance to the law. We will keep you informed of developments

Thanks again for your interest in this issue.

Sincerely,

David G. Burwell

cc: Pat Kennedy
Charles H. Montagne, Esq.

Suite 304 • 1701 K Street, NW • Washington, DC 20006 • 202-659-8520

Warren

IN THE COURT OF APPEALS OF GREENE COUNTY, OHIO

RTC / file ohio

FREDERIC L RIEGER :

and :

KATHERINE G. RIEGER :

Plaintiffs-Appellants :

vs. : CASE NO. 85-CA-11

PENN CENTRAL CORPORATION :
and :
LITTLE MIAMI RAILROAD COMPANY:

Defendants-Appellees :

.....

OPINION

Rendered on the 21st day of May, 1985

....

PHILIP AULTMAN, Allen Building, P.O. Box H, Xenia, Ohio 45385
Attorney for Plaintiffs-Appellants

JOHN V. GIBNEY and PETER D. STEPHAN, 1228 N. Monroe Drive, Xenia, Ohio 45385
Attorneys for Defendants-Appellees

....

BROGAN, P.J.

Appellants, Frederic L. and Katherine G. Rieger, appeal from a decision of the Greene County Court of Common Pleas denying appellants' requests for a declaratory judgment to quiet title and an injunction enjoining appellees, Penn Central Corporation and the Little Miami Railroad Company, from negotiating the sale of an easement to the State of Ohio.

The record and stipulations of fact indicate that appellants are owners of 88.919 acres of land located in Spring Valley Township, Greene County, Ohio. Appellee, Penn Central Corporation, and its predecessor, the Little Miami Railroad, have operated a railray line between Cincinnati and Springfield, Ohio for over 140 years. The Little Miami Railroad merged with the Penn Central Corporation on December 31, 1981. A segment of the railway line is situated on a 12.06 acre tract of land, a portion of which runs through appellants' property. The parties stipulate that, although one Enoch Pilner signed a document on December 3, 1838, recorded on February 12, 1857, purporting to grant an easement to the Little Miami Railroad for railroad purposes, Enoch Pilner did not in fact own the property by virtue of another deed conveying said land to Robert Evans in 1838. Appellees discontinued use of the track on October 31, 1981, and the ties and tracks were removed between October 31, 1981, and June 30, 1982. The ballast remains intact on the right of way running through appellants' property. Appellee, Penn Central, has continued to pay real property taxes on this right-of-way.

Since June 30, 1982, appellee has conveyed various portions of the land in the vicinity of the right-of-way by Quit Claim Deeds. Notably, the State of Ohio has also expressed an interest in purchasing the right-of-way from appellee for use as a recreation trail.

Appellants filed a complaint against appellee on May 3, 1983, requesting a declaratory judgment that (1) appellee's right-of-way through appellants' property has been abandoned; (2) that appellee's interest be declared terminated; (3) that appellants' title be quieted as to any claim of the appellee railroad; and (4) that appel be enjoined from negotiating a sale of any claimed interest in appellants' land. In support of this request, appellants maintained that appellee had acquired an easement, rather than a fee simple in the right-of-way; that the easement had been abandoned and that as a result of the abandonment, the underlying fee reverted to them free of the easement. Appellants also alleged that use of the right-of-way as a recreational trail would be inconsistent with the original purpose for which the easement was acquired and would materially increase the burden on the servient estate.

In its Decision and Judgment Entry filed on January 10, 1985, the trial court determined that appellee had only acquired a prescriptive easement[1] over the right-of-way. Further, the court held that appellee had not legally abandoned the easement because it had maintained the ballast and continued to pay real estate taxes on the easement. Finally, the court determined that although one acquiring an easement may not materially increase the burden on the servient estate (appellants' property), that use of the right-of-way as a recreation trail is a public use, consistent with the purpose for which the easement was acquired. Appellants timely filed their notice of appeal from this judgment on January 23, 1985.

Appellants assert three assignments of error. The first is set forth below:

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[1] The period necessary to acquire an easement by prescription corresponds to the 21-year time period required to acquire title to re property by adverse possession. Pavey v. Vance (1897), 56 Ohio St. 162.

> THE COURT OF COMMON PLEAS OF GREENE COUNTY, OHIO, ERRED IN HOLDING THAT THE DEFENDANT-APPELLEE, PENN CENTRAL RAILROAD CORPORATION, HAS NOT ABANDONED ITS PRESCRIPTIVE EASEMENT THROUGH PLAINTIFF-APPELLANTS' LAND.

The trial court determined that the appellee had acquired an easement by prescription rather than a fee simple over the 12.06 acre tract of appellants' land. Appellants contend however that by ceasing to use the land for railroad purposes and by virtue of the sales of land in the vicinity of the right-of-way, appellee has abandoned its prescriptive easement. We disagree.

In its January 10, 1985, Decision and Judgment Entry, the trial court stated:

> "Plaintiffs are correct to suggest that the rights underlying an easement will revert to the owner of the servient estate if such easement is abandoned. However, 'abandonment' has two requirements: (1) nonuse of the easement, (2) intention to abandon. An intention to abandon must be established by unequivocal and decisive terms. *Schenck v. The Cleveland, Cincinnati Chicago & St. Louis Railway Co* (1919), 11 Ohio App. 164,167. Although the easement is no longer used for railway operations, the Defendant continues to pay taxes on the easement and the ballast upon the right-of-way remains intact. Accordingly, the Court finds that the Defendant has not legally abandoned the easement." (Decision p. 5).
>
> "Plaintiffs suggest that the Quit Claim Deeds executed and delivered on March 15, 1983, and July 7, 1983, show intent to abandon the easement. A Quit Claim Deed purports to convey only the rights and interests of the said grantor. Thus, the Defendant, as owner of an easement, transferred no greater rights or interest than it had. And, therefore, the grantees are bound by the restrictions imposed upon the easement by its creation. More is needed here, however, to show abandonment." (Decision p. 6).

We agree.

It is well-settled in Ohio that easements may be acquired by prescription and an easement so created stands in all respects on equal footing with an easement acquired by grant. Pavey v. Vance (1897), 56 Ohio St. 162; 2 Ohio Jur 3d, Adverse Possession, Section 90, Easements, p. 599. Appellants correctly maintain that under appropriate circumstances, a prescriptive easement may be abandoned. To constitute an abandonment of a railroad right-of-way, there must be a nonuser together with an intention to abandon. The intention can be established by unequivocal and decisive acts clearly indicative of abandonment. Schenck v. Cleveland, Cincinnati, Chicago & St. Louis Railway Co. (1919), 11 Ohio App. 164; Junction Railway Co. v. Ruggles (1857), 7 Ohio St. 1. Where a railroad right-of-way constitutes an easement and such easement is abandoned, the land is discharged of the burden and the right to possession reverts to the owner of the servient estate. Ruggles, supra. Accordingly, appellants maintain that because appellee has not used the right-of-way since 1981, removed its ties and tracks and sold land in the vicinity of the right-of-way to parties who have no intention of putting the land to public use, that appellee has unequivocally demonstrated its intention to abandon the right-of-way. Consequently, appellants maintain that their reversionary interest has matured.

A determination of whether a railroad right-of-way has been abandoned focuses most strongly on the matter of intent. Generally no single factor has been held sufficient, in and of itself, to establish an inference of intent to abandon. See 95 A.L.R. 2d 468, Annotation: Railroad Right-Of-Way Abandonment. Additionally, Ohio case law indicates that a right-of-way is not abandoned merely upon proof of non-use. Ruggles, supra. In the case sub judice, the record indicates that appellee continues to pay real property taxes on the right-of-way. The ballast on the right-of-way remains intact. Although appellee has sold various portions of the property in the vicinity of the right-of-way, the Quit Claim Deeds clearly state:

> "(2) that the Grantee shall not have or assert to have any claim or demand whatsoever for compensation for damages whether said damages be direct or consequential, to the land hereinbefore described or to any buildings or improvements now or hereafter erected thereon, or to the contents thereof, which may be caused by the operation, maintenance, repair or renewal of Grantor's railroad or which may be caused by vibration resulting from the operation, maintenance, repair or renewal thereof; and the said Grantee hereby expressly releases the said grantor from liability from any such damages." (Emphasis ours).

We do not find that the language in the deeds evinced any intention on the part of the appellee to unequivocally abandon its right-of-way, especially in light of the language reserving the right to renew railroad operations. Further, as the trial court noted, a Quit Claim Deed purports to convey only the rights and interests of the grantor. Accordingly, the grantees are bound by the restrictio imposed upon the easement by its creation. Realty Title and Investment Co. v. Railroad Co. (1919), 12 Ohio App. 73, 78; See generally 36 Ohio Jur 2d, Easements and Licenses, Section 72, p. 475.

The trial court determined that appellee had not abandoned its right-of-way and we hold that this determination is supported by competent, credible evidence. Judgments supported by some competent, credible evidence will not be reversed by a reviewing court as being against the manifest weight of the evidence. Seasons Coal Co. v. Cleveland (1984), 10 Ohio St. 2d 77. Additionally we find the trial court's decision to be in accordance with the law of Ohio and is neither unreasonable, arbitrary or unconscionable. State v. Adams (1980), 62 Ohio St. 2d 151. Appellants' first assignment of error is overruled.

Appellants' second and third assignments of error are set forth below:

> THE COURT ERRED IN HOLDING THAT THE STATE OF OHIO'S USE OF THE RIGHT OF WAY OF SAID RAILROAD AS A RECREATIONAL TRAIL IS WITHIN THE SCOPE OF INTEREST ACQUIRED BY THE RAILROAD.
>
> THE COURT ERRED IN DENYING THE PLAINTIFFS-APPELLANTS' REQUEST FOR A QUIET TITLE ACTION AND FOR AN INJUNCTION ENJOINING THE SALE OF THE RAILROAD EASEMENT TO THE STATE OF OHIO.

The second assignment of error alleges that the trial court erred in determining that acquisition of the right-of-way by the State of Ohio for use as a recreation trail is within the scope of interest of the original easement. The logical corollary to this argument is that the trial court erred in denying appellants' request for a quiet title action and an injunction prohibiting the potential sale. Accordingly, we shall address the assignments of error together.

We first point out that the appellee has not yet sold the right-of-way to the State of Ohio. Apparently, appellants contend that, even if appellee has not presently abandoned its right-of-way, transfer of the right-of-way to the State of Ohio for use as a recreation trail will exceed the scope of the original easement, constituting an abandonment.[2] Appellants maintain that although a railroad right-of-way and a recreation trail are both designed for public use, that a railroad transports cargo and people in closed carriers and a recreation trail permits movement of people by hiking, jogging, motor bikes, snowmobiles[3] and bicycles which would substantially increase the burden on appellants' servient estate.

Generally, the character of a prescriptive easement is fixed and determined by the user under which it was acquired. See, 25 American Jurisprudence 2d, Easements and Licenses, Section 84. Further, a prescriptive easement stands on equal footing with an easement acquired by grant and may pass by conveyance of the dominant estate. Pavey v. Vance (1897), 56 Ohio St. 162. Ohio case law recognizes that transfer of a canal right-of-way to a railroad or a railroad right-of-way to another railroad does not generally constitute an abandonment of an easement for public use. Hatch v. Cincinnati & L. R. Co. (1864), 18 Ohio St. 92; Garlick v. Pittsburgh & W.R. Co. (1902), 67 Ohio St. 223. These cases are supported by the rationale that the original easement in the land is not extinguished because the proposed use is similar to that originally contemplated and "because the general purpose to which the easement was and is applied, are the same: to wit, the purposes of a public way to facilitate the transportation of persons and property. Means and appliances are different, but the objects are similar; and the legislation of the State has always favored both." Hatch, supra.

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[2] Technically, appellant continues to argue that the alleged abandonment occurred upon discontinuation of the right-of-way for railroad purposes in 1981-1982. We have already determined in Part One of this opinion that the trial court properly determined that the easement had not been abandoned. We find that the thrust of appellants' contention in its second and third assignments of error is that a conveyance to the State of Ohio will work as an abandonment of the use for which the easement was originally acquired and trigger appellants' reversionary interest.

[3] We note that if the State of Ohio purchases the right-of-way for use as a recreation trail, the use of motorized forms of recreational travel is expressly prohibited by R.C. 1519.01 and 1519.02.

Although other state courts have determined that use of a railroad right-of-way as a public recreational trail or for other public purposes does not constitute an abandonment of the easement for public travel, we find that this precise issue has not yet been addressed by Ohio courts. See Minnesota Department of Wildlife v. State of Minnesota (1983), 329 N.W. 2d 543; Faus v. City of Los Angeles (1967), 67 Cal. 2d 350; 63 Cal. Rptr. 193, 451 P. 2d 849; Bernards v. Link (1951), 199 Or. 579, 248 P. 2d. Following a thorough review of the rationale underlying these cases and based upon Ohio statutory authority, we hold that conveyance of a railroad right-of-way to the State of Ohio for use as a recreation trail does not constitute an abandonment of the right-of-way for public travel.

In Minnesota Department of Wildlife, supra, the Supreme Court of Minnesota reasoned that:

> "The holder of an easement is not limited to the particular method of use in vogue when the easement was acquired, and other methods of use in aid of the general purpose for which the easement was acquired are permissible."
>
> "The right of way in this case will be used by hikers, bikers, cross-country skiers and horseback riders. The right of way is still being used as a right of way for transportation even though abandoned as a railroad right of way. Recreational trail use of the land is compatible and consistent with its prior use as a rail line, and imposes no greater burden on the servient estates. The use is a public use, which is consistent with the purposes for which the easement was originally acquired. State and federal statutes encouraging the conversion of railroad rights-of-way to recreation trails also support our holding."

Although the easements at issue in the aforementioned case were created by conveyance and grant, we do not find this distinction to be dispositive to an analysis of the case sub judice, as appellants maintain in their reply brief. In the Minnesota case, the deeds did not define the scope of use of the conveyed easements. Accordingly, the court determined that railroad rights-of-way are transferable and that such rights-of-way are generally acquired and held by a railroad to serve a public purpose. The court then reasoned that use as a recreation trail would continue to serve a public purpose. Although appellants correctly maintain that an easement by grant is limited by the specific language of the grant, we find that the Minnesota Supreme Court's analysis of an easement by grant, without any specific use restrictions, logically applies to a case involving a prescriptive easement.

We acknowledge appellants' reliance on Pollnow v. State Department of Natural Resources (1979), 88 Wis. 2d 350, 276 N.W. 2d 738, in which the Wisconsin Supreme Court ruled that use of a railroad right-of-way as a recreation trail constituted an abandonment of the easement. We hold that this case is not controlling. As the Court noted in Minnesota Department of Wildlife, supra, at the time Pollnow was decided, Wisconsin did not have a law addressing acquisitions of railroad rights-of-way nor had Congress enacted 16 U.S.C. 1247 ("Trails System Lands") which expressly encourages the States to consider "needs and opportunities for establishing park, forest and other recreation and historic trails on lands owned or administered by States, and recreation and historic trails in or near urban areas." Section D of 16. U.S.C. 1247 specifically addresses conversion of railroad rights-of-way. The Pollnow court, itself noted:

> "We make no holding as to the power of Congress or the State Legislature to preserve the rights of the public in existing rail corridors for multiple public uses, including transportation, conservation and recreation."

Chapter 1519 of the Ohio Revised Code, Recreational Trails, enacted in 1972, clearly recognizes the importance of the State's right to acquire property for recreational trail use. Section 1519.02 states in pertinent part:

> "Trail right-of-way acquisition, improvement, maintenance and supervision.
>
> The Director of natural resources may acquire real property or any estate, right, or interest therein for the purpose of establishing...any state recreational trail. The Director may appropriate real property or any estate, right, or interest therein for trail purposes only along a canal, watercourse, stream, existing or abandoned road, highway, street, logging road, railroad . . . particularly suited for nonmotorized vehicular recreational use."

Clearly, under the terms of R.C. 1519.02, the State of Ohio is permitted to acquire appellee's right of way for use as a recreational trail as a matter of statutory right. Additionally we find that use of the right of way as a recreation trail, based upon case law analysis, does not exceed the scope of the purpose for which the easement was originally acquired. Since the right-of-way has not been abandoned by appellee as of this point, See Part I of this opinion, appellee is the proper party to convey the right-of-way. Such conveyance will not constitute an abandonment of the right-of-way for public use. Consequently, appellants' rights, if any, to the property, free of the easement, have not yet matured.

The decision to grant or deny an injunction lies within the sound discretion of the trial court and a reviewing court may not reverse such decision absent a clear abuse of discretion. Sternberg v. Board (1974), 37 Ohio St. 2d 115. Based upon the foregoing analysis, we do not find the trial court's decision to deny appellants injunctive relief to be unreasonable, arbitrary or unconscionable. State v. Adams (1980), 62 Ohio St. 2d 151.

Appellants' second and third assignments of error are overruled.

The judgment of the trial court is Affirmed.

....

KERNS, J. and WILSON, J., concur.

Copies mailed to:
Philip Aultman
John V. Gibney
Peter D. Stephan
Hon. Judson L. Shattuck, Jr.

Senator **Wallop**. Thank you.

Mr. Telford.

STATEMENT OF LARRY W. TELFORD, GENERAL ATTORNEY, SANTA FE SOUTHERN PACIFIC CORP.

Mr. **Telford**. Thank you, Senator.

I am Larry Telford, general attorney for Santa Fe Southern Pacific Corp. I appreciate the opportunity to appear before you today to discuss in particular the matters dealt with in S. 1413 as they relate to the city of Tracy.

The situation in the city of Tracy arises out of a relatively common set of facts which occurred in the State of California during the original construction of the Central Pacific and the Southern Pacific Railroads.

When the railroads' construction crews would arrive at a particular location in order to build the railroad across a particular tract of land, they would often find someone in possession of the tract through which the railroad was proposed to be located. At that time, it was not settled that the congressional grant of the right-of-way took effect as of the date of the act, in this case 1862, so the only way that construction could proceed without delay was for the railroad to buy the necessary right-of-way from the person in possession, either by purchase or by exercise of the power of eminent domain.

It was not until 1880 that the Supreme Court decided that the congressional grant was effective as of the date of passage of the act rather than at the time of construction. Many miles of railroad were constructed on land which had been entered and patented into private ownership pursuant to the Homestead Act and other statutes during the period of time between the date of the congressional grant and the date of construction.

The railroads' records did not reflect the existence of the congressional grant in these cases until long after completion of construction. Some time after World War II Southern Pacific systematically searched the records of the General Land Office in the Bureau of Land Management. In many cases this search disclosed that the person who had granted the property to the railroad did not have title at the time that Congress passed the particular Congressional Grant Act, but had acquired his title at some later date before construction of the railroad reached that location.

When this search was completed, the railroads' maps were changed to reflect the existence of the possible application of the congressional grant to many locations in California. It appears that that is what has happened in Tracy. From my review of the historical record, the railroad purchased a deed from the occupant of the property—it was the Government's patentee—on July 27, 1870. The railroad was constructed, and the construction forces went on. The railroad was put in operation.

In 1888, Southern Pacific acquired—that is 18 years later, Southern Pacific acquired the quarter section that had been patented into private ownership to this private party.

Senator **Wallop**. I think you had better finish that thought.

Mr. **Telford**. Southern Pacific purchased from a private party the surrounding land. It had acquired a 100-foot-wide right-of-way from that same party in 1870. Eighteen years later, they acquired the surrounding land. So their records reflected a 100-foot-wide corridor on which the railroad existed then and exists today. They purchased the land a few years later, in 1892. They recorded a map of the town of Tracy that showed subdivided lots. Deeds were sold to settlers, people who wanted to build their homes in this area.

These lots are the lots in the city of Tracy which are dealt with in S. 1413. At some later date, and I cannot say exactly when, it was discovered that the congressional grant did apply to this land because Shepley, who was the Government's patentee, got his entry on the land or his patent after the date of the passage of the act. This apparently took place a considerable time after all of the lots had been sold.

What we have before you, as far as I know about, are some conveyances in 1981 which were in the nature of ratifications of the original deeds. They were quit claims issued by Southern Pacific at the request of the city of Tracy to people of modest means, homeowners in a, let us face it, the property alongside a railroad is rarely a desirable part of town, people who just did not have a way of dealing with their problem.

The railroad received a nominal administrative fee for the investigation, the preparation of the maps, the preparation of the deeds. I think the amount was $250 per deed. And those deeds were delivered, and that is what is before you for ratification now.

[The prepared statement of Mr. Telford follows:]

STATEMENT OF LARRY W. TELFORD. GENERAL ATTORNEY, SANTA FE SOUTHERN PACIFIC CORPORATION, BEFORE THE SUBCOMMITTEE ON PUBLIC LANDS AND RESERVE WATERS FOR THE COMMITTEE ON ENERGY AND NATURAL RESOURCES. APRIL 11,1986.

I appreciate the opportunity to appear before the Subcommittee today to discuss the administration of the so-called Congressional Grant Rights of Way of Southern Pacific Transportation Company, generally, and the situation in the City of Tracy, California, in particular. I have been the legal advisor to Southern Pacific on the subject of the Congressional Grant Rights of Way for the last twelve years, and I am familiar with the way the company responded to requests to purchase portions of these rights of way during that period of time, and for a considerable period of time prior to my tenure in that position.

For many years the company has had a policy of declining to convey any portion of these Rights of Way. They have been kept available for railroad operating purposes, although the company has leased portions not currently required to persons desiring to use them for operation of rail freight producing businesses,or other compatible uses. Such leases always provide for cancellation on relatively short notice in case the property is required for rail use.

Deviation from this policy occurs in two situations. In the first situation, predecessor companies, many years ago, shortly after the original construction of the railroad in California, made conveyances of portions of these Rights of Way to purchasers of the adjacent land grant section. In the second case, the local land records contain a deed from a land owner at the time of construction to the railroad for a right of way of lesser width than the Congressional Grant. In each case all the conveyances of the adjoining land since then are based on the boundaries established by the document of record in the local recorder's office.

In the first case, in the 1870s, before the courts determined that the Right of Way Grant carried a limited fee rather than the fee simple conveyed by the patented alternate sections, predecessor companies sometimes conveyed outer strips of the Rights of Way to the purchaser of the adjacent land grant section. The local land records reflect the boundaries established by these conveyances; the owners have improved the lands; their possession has not been challenged; and they have paid local property taxes on the affected property for the last century or more.

The second case also involves a situation dating to the original construction days. When the railroad's construction forces arrived at a particular location, they would often find someone in possession of the tract through which the railroad was proposed to be located. At that time it was not settled that the Congressional Grant of the Right of Way took effect as of the date of the act, so the only way that construction could proceed without delay was for the railroad to buy the necessary right of way from the person in possession, either by purchase or by exercise of the power of eminent domain. It was not until 1880, in the case of Railroad Company v. Baldwin, 103 U.S. 426, that the Supreme Court decided that the Congressional Grant was effective as of the date of passage of the act, rather than at the time of construction. Many miles of road were constructed on land which had been entered or patented into private ownership pursuant to the Homestead Act and other statutes during the period of time between the date of the Congressional Grant and the date of construction. The railroad's records did not reflect the existence of the Congressional Grant in these cases until long after completion of construction. Some time after World War II Southern Pacific systematically searched the records of the General Land Office in the Bureau of Land Management. In many cases, this search disclosed that the person who had granted the property to the railroad did not have title at the time that Congress passed the particular Congressional Grant Act, but had acquired his title at some later date, before construction of the railroad reached that location. When this search was completed, the railroad's maps were changed to reflect the existence of the possible application of the Congressional Grant to many locations in California.

I can't state with positive assurance that any particular parcel was discovered in this manner, as it is likely that many individual circumstances had come to the attention of the railroad prior to that time. In any case Southern Pacific was confronted with the fact that the local land records did not include a reference to the Congressional Grant because the Map of Definite Location filed by the railroad with the Secretary of the Interior was never filed in the local land records. The adjoining properties had changed hands many times over the years prior to discovery of the defect; no challenge to the owner's possession had ever been asserted; substantial improvements had been made in many cases; and the owners had paid taxes on the basis of an unencumbered ownership.

From my review of the historical record, it appears that the situation in the City of Tracy is the second type of case. On July 27, 1870, the Central Pacific Railroad Company purchased a deed to a 100 foot wide right of way from the patentee of the United States. The railroad was constructed and opened to operation, and then on October 6, 1888, eighteen years later, the surrounding property was acquired. On July 29, 1892, Southern Pacific Company, the successor of Central Pacific filed the original map of the City of Tracy. This map shows the lots to which the quitclaim ratifications before you in S. 1413 apply. Lots shown on that map were apparently conveyed before it was realized that the Congressional Grant Right of Way provided for in the Act of July 1, 1862, applied. I cannot address the ancient conveyances which S. 1413 would ratify, but all of the 1981 quitclaims were issued in an attempt to clean up a situation which was causing blight in Tracy. The owners of these properties were unable to secure financing for improvment or purchase, and the resulting deterioration and underimprovement was a serious concern for the City. The City approached Southern Pacific on behalf of these owners, all persons of modest means, to see what could be done to clean up the title to these lots. The railroad investigated the situation and agreed to issue quitclaims to these individuals. Southern Pacific received no consideration for the quitclaims to these owners, although a nominal administrative fee was charged to cover the cost of investigation, preparation of prints, deeds, etc.

In summary, the policy of Southern Pacific in each case is to require the party seeking a quitclaim for a portion of any of the Congressional Grant Right of Way to establish that he is shown as the owner of record in the local land records, that he or his predecessor has been in possession of the land in question for many years without challenge by the railroad, and that he or his predecessor has paid local property taxes on the land for the period of such possession. Each case is carefully reviewed by the company's operating, real estate, engineering and law departments before it is acted upon, and only an administrative fee is charged to the applicant.

That concludes my prepared statement. I would be pleased to answer any questions you might have.

Senator WALLOP. Thank you.

STATEMENT OF ROBERT H. MULLEN, LODI, CA

Mr. MULLEN. You have had the endorsement of Senator Wilson and Congressman Shumway to what should be considered a routine bill, the type of legislation that has been going on since 1904, to the best of my research, when you have ratified conveyances such as this. I personally have seen to it that two prior bills through Congressman McFall, identical in form to these, have been approved and ratified by Congress in the past.

I want to restate, reemphasize the point that was made by Mr. Telford to the effect that the patent originally issued by the United States to Shepley contained the full quarter section without diminution at all of any right-of-way whatsoever, and the Government therefore, as the patent customarily recites, you have been paid in full, and so therefore here is your patent, Mr. Shepley.

And so, I take the position that the Government has been paid in full right there. I go on further in my paper to you indicating all kinds of other considerations that the Government received, like the reduction of 50 percent on shipments which saved the Government some $1,600,168,000, the other facts on it, and the—as I say, this should just be considered as a routine bill, and the people of Tracy be treated as they have been in the past.

There has been no testimony that I have heard here saying that we must pay or anybody must pay consideration. Mr. Tidwell just mentioned in passing this morning there is no compensation being paid. I want to say, hell, there never has been any compensation paid on any of them anywhere along the line. The closest they came to it was in 1960, when we had the testimony here in this statement. I understand that there is one volume of this left in the Library of Congress, in the possession of Gene Toohey, but that goes into this question of compensation back and forth.

The railroad is affected, the Department of the Interior, BLM, and all the rest of them, and nothing ever came out of it, and this document here I just would like to cite—well, I cite it in my paper—contains all the pros and the cons, and I submit that the reasons against compensation, the trouble that the Government would have in enforcing, how to figure out how much to pay, what is going to happen to the little slivers of land left over that will not meet local zoning ordinances, that you cannot construct on, disrupting established people that have been paying taxes all these years, to get involved in the question of compensation to me is just absolutely ridiculous.

I am a taxpayer. I do not like to see Uncle Sam give anything away, but I assure you Uncle Sam is not giving anything away in these particular situations. But the citizens affected are being mistreated unless legislation such as this is enacted and continues to be enacted as future bills will be presented to the Congress for ratification when circumstances warrant the issuance of quit claim deeds by Southern Pacific.

Just real quickly, I want to state that I have obtained approximately 75 deeds from Southern Pacific over the years, and never once have they ever been paid anything other than their out-of-pocket administrative expenses of $250, $350 in this particular case. Here they have gone up along with everything else. Anyone starts to tell me that Southern Pacific is overcharging, I jump all over them, because I know how long it takes, what it takes for their time to draw the maps, to draw the deeds, to submit them to me, and the time consumed on it. They are being very reasonable in their administrative costs.

I respectfully hope we have favorable action on this bill. Thank you.

[The prepared statement of Mr. Mullen follows:]

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April 3, 1986

Hon. Senator Malcolm Wallop
Chairman, Subcommittee on Energy
and Natural Resources
United States Senate
Washington, D.C. 25015

RE: S1413

Dear Mr. Chairman:

My name is Robert H. Mullen, an attorney at law in Lodi, California.

I am submitting this statement in my capacity as special counsel for the City of Tracy, San Joaquin County, California. My assignment has been to clear the record title of the Congressional Grant through the City limits of Tracy. The City has heretofore received a HUD grant. The numerous parcels affected by this legislation are owned by low income persons and do not have sufficient funds to remove the cloud on their property. It is for that reason that the City of Tracy has obtained a grant to clear the title so that loans may be obtained by the individual parties for the upgrading and improving of their respective parcel.

With the assistance of Congressman McFall in 1970 and again in 1978, I was successful in obtaining passage of two similar bills in Congress which cleared the title to the properties abutting the railroad within the City limits of the City of Lodi. Those bills, as well as many, many other bills of a similar nature, have been routinely approved by Congress in the past years.

We believe that other persons and staff will give a general background of the problem created by the 1862 legislation which granted to the railroad the 400 foot strips of land and alternate sections through the areas where they actually placed their tracks.

Arnold E. Petty, the Deputy Director of Management Services, Bureau of Land Management, in his testimony before the House Subcommittee on Public Lands in connection with H.R. 2067 which is the companion legislation that has passed through the House, gives an excellent background of this type of legislation and the fact similar legislation has been enacted in the past providing three criterion are met which is the case of S1413. He then states:

> Therefore, we have no objection to enactment of H.R. 2067.

His next statement then follows:

> We do have one concern with enactment of H.R. 2067. While enactment would validate the conveyances listed in the bill, as far as any interest of the United States is concerned, the involved parties would not be required to compensate the United States for the federal interest that they would be acquiring in the lands comprising the rights-of-way.

It is respectfully submitted that S1413 should be passed as a routine bill following exactly the same pattern and format as many other bills have been by Congress in over the past 70 years.

Because, however, the question of consideration may be of concern to this Committee, I believe it is essential for me to address the question of whether any consideration should be paid to the United States. I respectfully suggest that the answer should be in the negative for the following reasons:

1. The original Patent issued by the United States of America was to Robert Shepley, Jr., dated October 5, 1871, and recorded November 15, 1877, and covered the entire Northeast Quarter of Section 28, Township 2 South, Range 5 East, the Quarter Section in which the City of Tracy and the lands in question are

located and makes no mention of any right-of-way. The Patent contained the customary language that,

> It appears that full payment has been made by the said Robert Shepley, Jr., according to provisions of the Act of Congress ...

It is to be noted that therafter Shepley conveyed to the Central Pacific Railroad,

> In consideration of the sum of $250.00 U. S. Gold Coin

etc., a parcel of land within the Quarter Section which is described as a strip of land of 100 feet wide upon the located line of said Central Pacific Railroad. It is submitted that this should be CONCLUSIVE that the United States did receive the full amount of the purchase price for the land when the Patent was issued.

2. The following points and considerations were made in the hearings before the Subcommittee of the House on Public Lands on June 29 and 30, 1961, as Pamphlet Serial No. 9. Refer to page 96 of that Report and read the statement of F. J. Melia, Vice-President, Western General Counsel of Union Pacific Railroad, who notes:

(a) The construction of the railroad had the affect of substantially increasing the sale price of even numbered sections retained by the Government.

(b) The Government benefited greatly from concessions that were made to it in the transportation of freight at reduced rates.

(c) Mr. Melia quotes from the Domestic Land and Water Transportation Subcommittee of the Senate, (Report 1039 82d Cong. 1st Sess.), as of October 19, 1951. That report shows that the railroads had provided their own transportation facilities without significant Government financial assistance.

> Whatever contribution the Government may have made in the distant past has been repaid several times over. The basis for this statement by the Committee is set forth in the Appendix of the Report at page 72 wherein it is shown that the value of the railroad land grants at the time of the grants was, (according to the Eastman report) $174,264,799.00 and that the estimated savings to the Government through the application of 50% land grant rates and equalization agreements was $1,168,783,000.00.
>
> During the time the Union Pacific hauled Government freight at 50% of tariff rates, we kept a record of it, the Government was benefited to the extent of 220 million. In other words, we absorbed 120 million of the $1,168,000,000.00. Our land grant was eight million acres, that is at about $13.00 per acre. We sold our land grants for from 50¢ to $1.75 per acre. The Government benefited to the extent of $13.00 an acre.

3. Letter from the Department of the Interior addressed to the House in 1960 regarding similar legislation to S1413 that was then pending and discussing the question of consideration, the Department states:

> We doubt that the value of the United States interest would prove sufficient to offset the cost of litigation and administration which would be imposed.

4. In addition to the above, the United States has received immeasurable benefits from the construction and operation of the railroad lines such as the acceleration of settlement of the country and development of its natural resources, an increase in the value of public lands, the strengthening of national defense in critical periods, the increase of taxable wealth, the reduction of transportation costs and provisions for more expeditious and comfortable travel by people.

5. In all of the Deeds which are before you in the current legislation as well as in all Deeds which I have personally obtained from the Southern Pacific Railroad for the prior legislation, the railroad has never asked, been paid nor received any compensation other than their out-of-pocket administrative costs for

the preparation of that particular Deed.

It should also be pointed out that all of these Deeds have been issued only to property owners who are adjacent to the railroad right-of-way.

Refer to Deeds 13 through 28 in the pending legislation and you will note that these are all original Deeds executed by the railroad after they had recorded the Map of Tracy and are dated from 1880 to 1917. They cover the whole lot in question without any exclusion for any Congressional Grant when in fact it subsequently developed parts of all these lots lie within the 400 foot right-of-way.

Deeds 5 through 12 cover lots on the North side of Sixth Street and were Quitclaim Deeds of the surplus right-of-way to the then owners of the adjoining parcels. These Deeds recite:

"Value of interest conveyed less than $100.00."

The remaining Deeds were obtained by me from Southern Pacific to clear the "checkerboarding" of the Grant on the remaining lots in Mountain View subdivision. The consideration paid for each Deed was $350.00 to cover the administrative costs to the Railroad Company.

It is respectfully submitted that the affected property in Tracy and the other Grantees named in the Deeds before you should be accorded the same rights as all persons so affected when similar legislation has been introduced and adopted over the past 70 years.

Respectfully submitted,

MULLEN, SULLIVAN & NEWTON

By
ROBERT H. MULLEN

RHM:sw

Senator **Wallop**. Mr. Mullen or Mr. Telford, either one, are all the tracts covered by this bill in the same category? I mean, they all fall into that kind of category that the original patentee——

Mr. **Mullen**. That is what my checking of the records would indicate, yes. And there are deeds that go, as indicated in the bills, the dates of the deeds go way back to the thirties.

Mr. **Telford**. What we have, as far as I can tell, is exactly as he describes. The railroad has had a policy for many, many years, long predating my association with its function, of not making any conveyances of these rights-of-way. The only time it will consider an application for a quit claim is when the equities are demonstrated to be with the homeowner or the property owner——

Senator **Wallop**. My point was to inquire if all the tracts covered by S. 1413 fell into the category that you describe where the original patentee was paid in full.

Mr. **Telford**. I have not personally investigated the record in that regard.

Senator **Wallop**. If that is the case, we have no problem with the compensation, I do not think, and it would be worth a quick——

Mr. **Mullen**. I can submit to Mr. Bevinetto copies of the patents on the others in Sacramento County and the one down in Loomis, those deeds. I have the patent here for the Tracy, the patent to Shepley, but I have not actually seen the other two, so I do not want to—I would have to get those and submit those.

Senator **Wallop**. If they are the same—one of the reasons also I just might—as an observation, the subject of compensation may not have come up before in the sixties because FLPMA had not yet been enacted, and there was less concern about compensation. Some days there was, and some days there was not. Now there is the full requirement.

Mr. **Mullens**. This is interesting reading here. Back in 1960, staff was after compensation to beat the band, and there was a lot of opposition to it at that time.

Mr. **Telford**. I can state that it was the practice of the General Land Office not to make any deduction from a patented governmental subdivision, be it a quarter section or section or what have you, when those patents were issued on account of the presence of an actual or projected railroad right-of-way.

Senator **Wallop**. Thank you all very much. It has been helpful testimony.

Now, on S. 1946, Suzanne Wilkins, executive director of the Farmington River Watershed Association, and Mr. Christopher Brown, conservation director of the American Rivers. I appreciate your patience.

Ms. Wilkins.

STATEMENT OF SUZANNE WILKINS, EXECUTIVE DIRECTOR, FARMINGTON RIVER WATERSHED ASSOCIATION

Ms. **Wilkins**. Mr. Chairman, we thank you for hearing this bill this afternoon, and appreciate your saving the best for last.

My name is Suzanne Wilkins. I am the executive director of the Farmington River Watershed Association, a 1,400-member organization which balances the various uses of the Farmington River.

In deference to time constraints today, we have not asked those individuals and organizations who testified on this bill in the House to speak today. Nonetheless, we wish to note that the positive statements were entered into the record last fall from representatives of National Audubon, Environmental Policy Institute, Allied Connecticut Towns, the Environmental Fund, as well as an outfitter and a recreationist.

Even though those groups are not here today, their support remains strong. In addition, 11 State and regional organizations representing approximately 30,000 persons have formally endorsed this protection effort.

As a natural and recreational resource, the Farmington River is unparalleled in lower New England. According to Trout, Unlimited, the west branch is the most utilized trout fishing in the State, providing recreation for over 30,000 anglers each year.

The Farmington is also a major component of the Federal Atlantic Salmon Restoration Program, into which over $60 million has gone to date. This segment of the river is the only nesting site in Connecticut for the common merganser—an uncommon species in the State. Our largest colony of cliff swallows is located here. Osprey and bald eagles fish the west branch regularly.

The 18 miles under consideration are enjoyed annually by tens of thousands of tubers and paddlers. Sanctioned canoe races are held each year on some class 3 and 4 rapids there.

The description of the Farmington's natural and recreational aspects may sound like 1 of 100 other rivers. However, it is unique in that it is a few miles' ride from Hartford, and according to the Environmental Fund, 24 million people live within 100 miles of the river.

A wild and scenic study undertaken by the National Park Service is vital to the future of the west branch, the east branch and one of the river's other major tributaries, the Neepog, have been dammed up for water supply. Fourteen sewage treatment plants in the Farmington watershed contribute an average of 20 million gallons of treated effluent daily to the lower segments of the river.

With all of these competing uses and pressures on the river, the Farmington needs study designation. This work would pull together various existing smaller studies that have been done to date and provide necessary environmental review under NEPA. We believe only the National Park Service can provide this level of necessary work, since Connecticut is not yet ready for rivers work.

Also, the study would provide a necessary time out while other State efforts are undertaken, such as long-range water supply planning for the State.

We thank you for this opportunity, and look forward to having the west branch of the Farmington be permanently designated into the wild and scenic system. Thank you.

[The prepared statement of Ms. Wilkins follows:]

STATEMENT OF SUZANNE WILKINS, EXECUTIVE DIRECTOR
FARMINGTON RIVER WATERSHED ASSOCIATION

Before the Subcommittee on Public Lands, Reserved Water and
Resource Conservation
Committee on Energy and Natural Resources, United States Senate.

April 11, 1986

Mr. Chairman, Members of the Committee. Good morning, my name is Suzanne Wilkins. I am the Executive Director of the Farmington River Watershed Association, a 1,400-member organization, which balances the various uses of the Farmington River. In its 32-year history, FRWA has worked cooperatively with all levels of government, other citizen groups and local corporations to protect the river. In 1981 the Interior Department gave FRWA its HCRS award. We are pleased to be able to speak today in support of S.1946.

In deference to time constraints today, we have not asked those individuals and organizations who testified on this bill in the House to speak today. Nonetheless, we wish to note that positive statements were entered into the record last fall from representatives of National Audubon, Environmental Policy Institute, Allied Connecticut Towns, The Environmental Fund, as well as an outfitter and a recreationalist. Even though those groups are not here this morning, their support remains strong. In addition, eleven state and regional organizations, representing approximately 30,000 persons, have formally endorsed this protection effort.

As a natural and recreational resource, the Farmington River is unparalleled in lower New England. According to Trout Unlimited, the West Branch is the most utilized trout fishing in the state, providing recreation for over 30,000 anglers each year. The Farmington is also a major component of the federal Atlantic Salmon Restoration Program, into which over $60 million has gone to date.

This segment of the river is the only nesting site in Connecticut for the common merganser--an uncommon species in the state. Our largest colony of cliff swallows is located here; osprey and bald eagles fish the West Branch regularly.

The 18 miles under consideration are enjoyed annually by tens of thousands of tubers and paddlers. Sanctioned canoe races are held each year on some of the Class 3 and 4 rapids there.

The description of the Farmington's natural and recreational aspects may sound like any one of a hundred other rivers in the country. However, what is unusual is its location. It is situated a few minutes' ride from Hartford, and, according to The Environmental Fund, 24 million people live within 100 miles of the river. As more and more people take advantage of leisure time and discover the Farmington, this resource will experience increased pressure and will need improved management.

A Wild and Scenic Study undertaken by the National Park Service is vital to the future of the West Branch. The East

Branch and one of the river's major tributaries, the Nepaug River, have been dammed up for water supply. The Metropolitan District Commission (MDC), which provides Greater Hartford's water supply, still eyes the West Branch for future use. Fourteen sewage treatment plants in the Farmington watershed contribute an average of 20 million gallons of treated effluent daily to lower segments of the river.

With all of these competing uses and pressures on the river, the Farmington needs Study designation. In 1982 the Park Service undertook a technical study of the Farmington. That study recommended a complete Wild and Scenic Study.

Only the National Park Service can provide this level of necessary work. Our State Department of Environmental Protection has a Rivers Program "on the books"; yet it is not funded or staffed, and, frankly, in my opinion, it will be a long, long time before the Department is willing to commit itself to this type of program. The Farmington cannot wait!

Second, a Study is needed since it would provide a necessary "time out." Let us give the Farmington a rest from the threat of water supply development while the MDC completes its long-range planning, recently begun via an independent consulting firm. Let us remove pressure from the Farmington while the State undertakes the "Connecticut Plan," its new region-by-region long-range water supply planning mechanism.

The work undertaken by the Park Service through the Study will provide a key component to future decision making in the state and, we believe firmly, will lead to permanent designation of the West Branch of the Farmington River into the Wild and Scenic Rivers System.

Thank you.

Senator **Wallop**. Thank you very much. Chris.

STATEMENT OF CHRISTOPHER N. BROWN, CONSERVATION DIRECTOR, AMERICAN RIVERS CONSERVATION COUNCIL

Mr. **Brown**. Thank you, Mr. Chairman.

I also wanted to thank Senators Weicker and Dodd and Representative Johnson for a lot of work they have done on the Farmington River legislation.

I will summarize my remarks. Farmington really is a special kind of river. It is what I call a community river. Community rivers really are different than the wild and scenic rivers, remote, pristine streams that we often designate into the national system, but rivers which, despite a fair degree of development, still have many of the qualities of wildlife, the recreational values, and so on that make them so important to the people of this country.

So, it is, I think, an opportunity with this bill to at least study for the wild and scenic system a special kind of river. I wanted to compliment the Farmington River Watershed Association, which has for 32 years been working on protection of this river, and has done a tremendous amount of education and building support around the State of Connecticut for this really extraordinary resource.

Two points I want to make about the bill. One is, it is a different kind of study bill in that during the course of the study management alternatives for the river will be looked at. I think what is important in this is that it gives people an idea of what they are buying into. If the decision is made to go ahead with the designation, they know what may occur in terms of management of the river, and I think that is a very important precedent, and one we should be looking at in future studies of rivers.

The second point I would make would be that I think there really is a need for a wild and scenic study. While a number of resource assessments have been made of the river already, there is a need for one final study to look at all the new information that has been collected, to pull existing information together, and to look at the environmental impacts and the reaction of the community to designation of the river before we can make a final decision about whether to push designation.

There are probably some changes that are needed to be made in S. 1946. I think the changes that were made in H.R. 4350 would be appropriate and would make all of us very supportive of this bill.

I just would conclude, Senator, with wanting to reward you for your patience today by presenting to you a beautiful poster that we have. Each year my organization sponsors American Rivers Month all over the country, and this year we feature a river in Wyoming, the Clark's Fork of the——

Senator **Wallop**. I can tell it from here. [General laughter.]

Mr. **Brown**. But I will bring this up to you. I would like you to have it. It is a terrific river in your State. Thank you.

[The prepared statement of Mr. Brown follows:]

ARCC American Rivers Conservation Council
322 4th Street, N.E. Washington, D.C. 20002 Telephone: (202) 547-6900

TESTIMONY OF CHRISTOPHER N. BROWN

CONSERVATION DIRECTOR, AMERICAN RIVERS CONSERVATION COUNCIL

on

S. 1946, THE FARMINGTON RIVER WILD AND SCENIC
STUDY BILL

before

THE PUBLIC LANDS, RESERVED WATER, AND RESOURCE
CONSERVATION SUBCOMMITTEE

FRIDAY, APRIL 11, 1986

Dedicated to the Preservation of Free-Flowing Rivers

Thank you, Mr. Chairman, for the opportunity to testify in favor of S. 1946, a bill to study the Farmington River for the National Wild and Scenic River System. I especially wish to thank Congresswoman Johnson for her continued efforts to protect and conserve the Farmington; and to Senators Weicker and Dodd who have cosponsored the senate bill under consideration today.

My name is Christopher N. Brown and I am the Conservation Director of the American Rivers Conservation Council. American Rivers is the only national conservation organization dedicated exclusively to the preservation of free-flowing rivers. In its 13 year history, the Council has worked to protect rivers under the Wild and Scenic Rivers Act and has actively assisted states and local groups with their river conservation efforts. The American Rivers Conservation Council has over 6,000 members.

Connecticut's Farmington River is an important river for me for several reasons. Not only did I live for part of my early years near it, but I have on several occasions subsequently had memorable canoe and swimming adventures on it. Its scenic, recreational, and wildlife values in the heart of the great eastern megalopolis are absolutely remarkable and the Farmington represents one of the best examples in the country of something I speak and write about frequently: a "community river".

Community rivers, as I have defined them, are every bit as much a part of our national heritage as more remote, pristine wilderness streams. They are the creeks, bayous, runs, and other watercourses that run through and between towns, and sometimes cities, intruding verdure, wildlife habitat, recreational open space, and the magic which only moving water can provide into developed, populated areas.

Community rivers inspire tremendous allegiance from local towns and citizens; after all, their floods and droughts, their fishing and swimming holes, their mill sites and animal havens, are part and parcel of life in the river's vicinity.

The Farmington is Exhibit A of a community river. Despite its being a hard-working river with two hydroelectric dams, two major reservoirs and diversions providing 100% of the drinking water for the greater Hartford area, and a flow that accommodates the sewage discharge of seven towns, the West Branch retains today most of the exceptional values which draw people to rivers in increasing numbers throughout the country. Excellent flatwater and whitewater boating, swimming and tubing opportunities, and superb trout fishing, all in a highly scenic setting provide close-in, inexpensive opportunities for the people of Hartford and, indeed, the entire region. These qualities led the West Branch of the Farmington to be listed among the top 2% of the nation's rivers in the 1982 Nationwide Rivers Inventory prepared by the National Park Service.

Among the West Branch's most important values is the rich wildlife riparian habitat; the 18 miles proposed for study are the centerpiece of this riparian zone. Numerous species of woodland mammals thrive along the river, and the state's largest colony of cliff swallows makes the corridor its home, while its marshes serve as important nesting areas for migratory waterfowl.

To appreciate the value of the riparian habitat on the West Branch, one must understand that these valuable ecological systems are rapidly being degraded and destroyed throughout the country. The lower 48 states originally contained between 75 and 100 million acres of indigenous woody riparian habitat; today, less than 35 million acres remain in near-natural condition. The rest of the rivers have been innundated, channelized, dammed, rip-rapped, converted to agricultural or urban use, their banks overgrazed, contaminated, or altered by a combination of factors which impair their ability to stabilize and maintain biological diversity. Between 1940 and 1971, the US Army Corps of Engineers assisted in navigation improvement and flood control projects which altered more than 11,000 miles of natural streams; while stream channelization by the Soil Conservation Service has adversely affected another 11,000 miles. Estimates indicate that another 68,000 miles of riparian habitat have been lost to privately owned dams. A 1981 study by the now defunct New England River Basin Commission estimated that only 5% of the region's rivers remain free-flowing, with 30-40 new hydropower dams proposed for the area.

No better proof of citizens caring for this river exists than the activity and vitality of the Farmington River Watershed Association. Now 30 years old, the Association's members have worked in a myriad of ways to see that their river and its environs are protected; their workshops last year on groundwater protection and conservation are just the latest in a long series of positive, constructive initiatives coming from this group, which is one of the outstanding small watershed associations in the country.

The bill before the Subcommittee today is important in several respects and is one American Rivers strongly supports with some modifications. I want to focus here on a couple of aspects of S. 1946 and make recommendations which would bring it into conformity with HR 4350 which passed the House earlier this week.

The bill establishes an important precedent for the investigation of management alternatives during the study phase. The discussion of potential management alternatives would be in a cooperative forum and would include private citizens, local townships, and state agencies all of whom would assist and advise the Secretary of the Interior in the implementation of the study. It should be made clear that this committee is advisory to the Secretary. S. 1946 should spell out the make-up of a 17 member advisory panel which would include 2 representatives of the Metropolitan District Commission. This provision modifies the committtee make-up of S. 1946 to balance the representation of the Metropolitan District Commission with that of the Farmington River Watershed Association and is consistent with the house-passed bill.

I am strongly in favor of this approach to protecting a Wild and Scenic River in populated areas where riverside land use is already fairly intense. Simply put, people need to know what they are buying into before they will support it. By considering the management of the river during the study process, state and local officials and private interests can make an informed decision on whether, ultimately, they support adding the river to the national system.

I believe this approach will be an important and positive precedent for Wild and Scenic studies and designations in the future, particularly in areas where river use is intense and the users are of diverse backgrounds and interests. I believe this will lead to many more river designations where historically there have been few.

The eventual conservation strategy for the Farmington River may or may not involve federal protection, although at this point, in the absence of a comprehensive statewide river conservation statute in Connecticut, federal designation is the only reliable protection scheme. A Wild and Scenic study, pulling together the various resource assessments and data that have been collected on the river, will allow the Interior Department, consulting with local governments and citizens, to make the best judgment on protecting this valuable resource.

I would add that a high percentage of the 18 mile study is already in public (although not federal) ownership, and remaining private lands would probably not be necessary for preservation of the river values, provided conservation restrictions were acceptable to the owners. Our experience on scores of rivers both federally designated and not has been that landowners strongly support preserving scenic values of "their" river, and in great majority they welcome a plan that would guarantee the protection of these values. I don't believe federal land acquisition should be contemplated except as a last resort to prevent degradation of the river's natural values.

Thank you, Mr. Chairman, for the opportunity to testify, and I would be happy to answer any questions.

Senator WALLOP. I appreciate it. Thank you very much.

Thank you. This seems to be pretty straightforward and pretty worthy piece of legislation. We will look forward to working on it. Thank you very much.

The subcommittee stands adjourned.

[Whereupon, at 12:50 p.m., the hearing was adjourned.]

APPENDIXES

APPENDIX I.—RESPONSES TO ADDITIONAL QUESTIONS

United States Department of the Interior
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

JUL 17 1986

Honorable Malcolm Wallop
Chairman, Subcommittee on Public Lands,
  Reserved Water and Resource Conservation
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Senator Wallop:

Thank you for your letter of April 21, 1986, enclosing followup questions for the hearing held on S. 2265, a bill to authorize the establishment of the Burr Trail National Rural Scenic Road. The questions and answers are enclosed.

Sincerely,

Steve Britt

J. Stephen Britt
Legislative Counsel

Enclosure

QUESTIONS FOR THE RECORD REGARDING S. 2265

Submitted by Senator Hatfield

1. Has the Park Service projected its road construction needs over the next five years?

ANSWER: Construction needs are not estimated on a five-year basis. However, the National Park Service maintains a Servicewide priority listing of construction-related needs identified by parks and Regional Offices. The total dollar value of all construction projects on the priority listing is currently estimated at $1.6 billion.

According to the Federal Highway Administration 1985 National Park Service Road Inspection Report, the total cost of road- and bridge-related work that needs to be done is $1.2 billion. However, only $717.7 million is listed on the Servicewide priority listing of its highest priority construction-related needs. We would note, however, that the vast majority of National Park Service road construction since fiscal year 1983 has been funded through the Federal Lands Highway Program which is currently proposed for reauthorization in fiscal year 1987 at an annual funding level of $75 million. Typically, this funding level accommodates 10-15 major multimillion dollar and 20-30 minor road repair and construction projects annually.

2. If so, has the Park Service prioritized these needs?

ANSWER: Yes. The National Park Service has a priority listing of road construction and repair needs. This listing contains 160 road and bridge projects with a cumulative cost estimate in excess of $717 million. The 20 road and bridge projects with the highest Servicewide priorities are as follows:

PARK	PROJECT DESCRIPTION	COST MILLIONS
Shenandoah NP	Reconstruct Skyline Drive	$22.000
George Washington Memorial Parkway	Repair Mount Vernon Parkway	$ 5.000
Wupatki-Sunset Crater National Monument	Reconstruct Main Road	$ 6.400
Grand Teton NP	Reconstruct Moose-Jenny Lake Junction Roads	$ 4.274
National Capital Parks-Central	Repair Defects, Lincoln Circle Approach Bridge	$ 4.460

Gateway NRA	Resurface Park Roads and Parking Areas	$ 5.719
North Cascades NP	Replace Bridge Creek Bridge	$ 0.585
Denali NP and Pres.	Rehabilitate Denali Road	$ 5.059
National Capital Parks-Central	Repair Major Defects, Suitland Parkway	$20.762
Sequoia-Kings Canyon NP	Rehabilitate Major Park Roads	$20.000
Voyageurs NP	Construct Black Bay Visitor Center Entrance Road	$ 1.435
George Washington Memorial Parkway	Complete Missing Segment in Commuter Bike Trail	$ 2.050
Glacier NP	Rebuild Going-to-the-Sun Road	$15.543
Lake Mead NRA	Relocate Lakeshore Road	$ 8.600
George Washington Memorial Parkway	Repair Deteriorated Portions of the Parkway	$29.140
Colonial NHP	Rehabilitate Seven Bridges	$ 7.850
Canaveral NS	Construct Alternate Access to Playalinda Beach	$ 5.785
Big Bend NP	Reconstruct Major Park Roads	$19.804
Glen Canyon NRA	Complete Bullfrog and Halls Crossing Road System	$ 5.190
Yosemite NP	Reconstruct Major Park Roads - Phase I	$10.000

3. Has the agency ever included this specific improvement proposal on a list of priority projects?

ANSWER: No.

QUESTIONS FOR THE RECORD REGARDING S. 2265

Submitted by Senator Johnston

1. Would you please provide copies of the following documents relating to S. 2265:

A. The draft contract between the National Park Service and the State;

B. The draft deed between the National Park Service and the State; and

C. An outline or summary of the so-called "Mott proposal" that is presumably the basis for S. 2265.

ANSWER: The draft contract and deed prepared by the National Park Service dated June 23, 1986, and approved by the Office of Management and Budget, are attached. Also attached is a copy of Director Mott's letter to Senator Garn which outlines the concept of the Burr Trail National Rural Scenic Road.

2. If enacted, S. 2265 requires that the Secretary certify "that adequate lands and funds are available to fulfill the purposes of this Act". How do you envision this provision working? How much money are you prepared to certify is available now? Can you certify that that amount is adequate to fulfill the purposes of the Act?

ANSWER: We envision this provision would work as stated in the bill; that is, the Secretary and the State would enter into a mutually agreeable contract, with the certification of adequate lands and funds being made by an exchange of letters between the Secretary and the State prior to the execution of the contract. Only then would the road be established as a unit of the National Park System. The advice of the Solicitor's Office on December 13, 1985, would be followed; i.e., normal budget and accounting practices would be followed with regard to the transfer of funds to ensure that the road was in fact being constructed according to the terms of the contract. Further, we anticipate transferring the Federal funds in the form of a grant in stages based upon a review of completed engineering plans for the project.

As presented in the testimony on April 11, 1986, there is available to the National Park Service $7.705 million for road construction within Capitol Reef National Park and Glen Canyon National Recreation Area. This is the amount appropriated under Public Law 99-190, less 4.3 percent reductions pursuant to Public Law 99-177. The adequacy of this amount will depend on the ultimate design of the road and final construction drawings. However, the Administration recommends that the certification of funds be limited to those funds already appropriated for design and construction of the Burr Trail National Rural Scenic Road. We cannot, of course, certify to the availability of future funding.

3. How much funding has been made available or requested for the construction of the interpretive center in Boulder, Utah?

ANSWER: $7.705 million is the total amount available for the design and construction of the Burr Trail National Rural Scenic Road as well as the interpretive facility in Boulder, Utah. Detailed estimates have not been developed for the interpretive facility.

4. Will there be an adverse impact on any BLM wilderness study areas as a result of this legislation? Has the BLM reviewed and commented on the specifics of this proposal.

ANSWER: If the road were constructed as contemplated under the bill, some widening of the present road would occur which would encroach on certain wilderness study areas (WSA's). The Bureau of Land Management has stated that the boundaries of the Steep Creek and the North Escalante Canyons/The Gulch WSA's extend to the edge of the present Burr Trail Road, but the county's right-of-way is undefined. The Draft BLM Utah Wilderness EIS now under public review proposes that an all wilderness alternative for these two WSA's would place the wilderness boundary at 100 feet from the edge of the road because the present right-of-way is undefined. Under the BLM's preferred alternative in the draft EIS, a partial wilderness would place the boundary at about 1/4 mile from the road edge. The proposed construction material borrow areas would not be within the WSA's. There has been both informal field review as well as formal headquarters review between NPS and BLM on this proposal in preparation for the hearing on S.2265.

5. What is the intent of the provision in section 2(b) authorizing the BLM to acquire lands for the interpretive center by exchange? Is this new authority necessary? Would you interpret this new authority as permitting a less-than-equal value exchange?

ANSWER: The language was included to assure that there was authority to accomplish an exchange if needed. Since the Bureau of Land Management is currently in litigation over the classification of land available for exchanges and since the Federal Land Policy Management Act of 1976 has various procedural prerequisites to transferring administration, the language of the bill would avoid legal challenges and time-consuming procedures. We do not consider the bill language as permitting a less-than-equal value exchange. The interpretive facility would be Federally owned.

6. How does the 100-acre per mile figure compare with the boundary and right-of-way of other parkways in the National Park System? Is this right-of-way and boundary depicted on the map entitled "Boundary Map, Burr Trail National Rural Scenic Road"?

ANSWER: The 100-acres per mile figure may be compared favorably with the 125-acres per mile standard authorized in both the Act of June 11, 1940, for the Blue Ridge Parkway and the Act of February 22, 1944, for the Foothills Parkway adjoining the Great Smoky Mountains National Park. The 100-acres per mile figure was chosen for the Burr Trail National Rural Scenic Road because the road is intended to be built and developed to a less rigorous standard than a parkway, and, consequently, less right-of-way would be required. The boundary map does generally depict the 100 acres per mile.

7. Is it your understanding that section 3(a)(2) is intended to authorize the excavation of the sand and gravel for the construction and maintenance of the road from BLM lands outside the 100-acre per mile boundary of the Scenic Rural Road? Does this language authorize such excavation and extraction from BLM wilderness study areas? How will the Secretary "transfer" these materials from the BLM to the National Park Service as required in S. 2265?

ANSWER: We expect that the legislation would authorize excavation of road construction materials from BLM lands as appropriate. Further, while the legislation does not specify whether WSA's are excluded from excavation or not, we would recommend that WSA's be excluded pending the Bureau of Land Management's completion of its Utah Wilderness study process. The Bureau of Land Management has suggested that the transfer of materials would probably be done under a special use permit or memorandum of understanding.

8. Please explain the nature of any reverters and conditions that the National Park Service would accept on the donated lands. Is it your understanding that the State seeks to include provisions in the deed or contract which could result in this new unit of the National Park System reverting to the State of Utah under certain conditions? Will the National Park Service agree to such a provision?

ANSWER: $8.1 million was appropriated, subject to authorization, under Public Law 99-190 for engineering and construction of the Burr Trail National Rural Scenic Road and for the construction of an interpretive facility in Boulder, Utah. The language contained in Public Law 99-190 also provides for reversion of lands, under certain circumstances, transferred to the National Park Service, specifically failure to maintain the road as provided in a cooperative agreement. However, on the advice of the Solicitor's Office, the cooperative agreement described in Public Law 99-190 should take the form of a contract and deed with the State. Both the Secretary and the State would need to mutually agree on the provisions of the proposed contract and deed for it to take effect. The National Park Service proposes that the operation of the Burr Trail National Rural Scenic Road be subject to the availability of staffing and funding. Further, we recommend that since the creation of this new unit of the National Park System is being accomplished legislatively, then any reverter clause must contain a provision for formal deauthorization by Congress before the land transferred to the Federal Government could be returned to the grantor.

9. Will commercial vehicles, other than tour buses, be allowed to use the road? If so, please list the type of commercial vehicles that will be permitted to use the road.

ANSWER: We would note that S. 2265 provides for use of the road by stock trucks, maintenance equipment and vehicles on State, county, and Departmental business, and busses not exceeding 96 inches in width, with a final provision that there shall be no limit of use by livestock owners, licensees, permittees, lessees, or other who have existing proprietary rights of use, ingress and egress to the road. The National Park Service position is to allow only stock trucks, maintenance equipment and vehicles on State, county, and Departmental business, and busses not exceeding 96 inches in width, with no other commercial traffic being allowed.

During the hearing on S. 2265, we recommended that the final proviso of section 4 be deleted. This provision, we were advised, was intended to insulate the State and/or County from any litigation or money judgments that may result from the National Park Service's regulation of the Road. The language attempts to achieve a "save and hold harmless" provision. As a matter of policy, we are opposed to legislation creating "save and hold harmless" arrangements because under existing law this Department cannot indemnify the State and/or County against lawsuits or future judgments because of the Anti-Deficiency Act (31 U.S.C. 1341(B)).

This Act essentially provides that an officer or employee of the United States Government may not enter into a contract or obligation to pay money before it is appropriated, unless Congress expressly provides this authority. The proviso clause as drafted does not establish an exemption from this Anti-Deficiency Act.

Furthermore, in our judgment, the State and/or County's concerns over liability are not well founded. The transfer of land, if lawfully done under State law, will not create State and/or County liability associated with the activities of the National Park Service. The State and/or County would not be a proper party to any subsequent lawsuit once title has passed from the County to the State and from the State to the United States of America.

We also believe that the proviso clause is duplicative and redundant of the limitations on the regulatory powers of the National Park Service already set forth in the opening provisions of section 4. The National Park Service should be allowed the discretion to make these future determinations based on its expertise in managing and administering units of the National Park System and based on public involvement during the regulatory process.

Finally, any limited regulation of the Road could not result in liability to the State and/or County. Liability will not result from the land transfer; and any limited regulatory action, as limited by this section, would be exclusively a Federal act.

10. What has been the general policy of this Administration on creating new units of the National Park System? Is your support of this measure consistent with that position?

ANSWER: The Administration's general policy on creating new units of the National Park System is to consider proposals on a case-by-case basis, weighing the merits of each proposal. Therefore, support of this measure is consistent with that position.

11. Would you say that establishing rural scenic roadways is a high priority of the Administration?

ANSWER: Although the proposal would traverse scenic areas and would connect points of interest, the highest priority for road-related funding must remain with the repair and rehabilitation of the present road system within authorized, established units of the National Park System. However, we would point out that this proposal is a joint venture between the National Park Service and the State of Utah so that the Federal Government will not bear the full cost of constructing this rural scenic roadway. Finally, this proposal will solve the vexing problem that has surrounded the issue for many years about what is the appropriate level of development for the Burr Trail.

12. How much will the construction cost? Please provide any background information you have available on how these costs were determined.

ANSWER: As presented in our testimony, initial estimates indicate that the total cost of construction would be $16.4 million. This figure is based on an extrapolation of estimates prepared by the Federal Highway Administration for the National Park Service on the original proposal by the Five County Association of Governments for paving the entire route. Preliminary plans have not been completed for either the road or the interpretive facility on which to base final construction costs; however, we believe that the estimate of $16.4 million is satisfactory.

13. How much does the Federal Government currently have available for this project? How about the State government?

ANSWER: As mentioned in our testimony, the National Park Service has available $7.705 million of the $8.1 million appropriated under Public Law 99-190. This reduction of $395,000 is the result of a 0.6 percent general reduction applicable to all activities and projects funded under P.L. 99-190 and the 4.3 percent reduction pursuant to Public Law 99-177. To date, the State of Utah has appropriated $600,000 for preliminary engineering work and recently has further identified $3.1 million for the State's portion of this project.

14. Who is to provide for the additional funds not currently available? Should the Park Service be responsible for any of this shortfall?

ANSWER: As mentioned in answer to question #2 above, the contract between the National Park Service and the State of Utah would require that each entity certify that adequate funds are available. Our testimony indicated that of the total $16.4 million construction cost, the Federal Government should be limited to certifying to that which was appropriated under Public Law 99-190, as amended by Public Law 99-177. The Federal Government cannot, of course, certify to the availability of future funding. As stated previously, the Federal share would include construction of that portion of the rural scenic road located within the boundaries of Capitol Reef National Park and Glen Canyon

National Recreation Area as well as the construction of an interpretive facility in Boulder, Utah. With regard to any shortfall for construction of other portions of the road, we recommend that the State provide necessary funding.

15. Congress sometimes specifies that projects such as this are to be paid for within existing funds. Can the Park Service afford to pay for this (operating costs) within existing funds or will additional funds have to be requested?

ANSWER: The estimated first-year operating cost of $800,000 and subsequent cost of $450,000 per year thereafter are not included in the current budget for the National Park Service.

16. What specific effect is the Gramm-Rudman legislation having on parks in Utah? Is there any reason to suspect that visitors will be less well served than last year because of the Gramm-Rudman cuts?

ANSWER: The Park Service areas in Utah will experience impacts due to the Gramm-Rudman legislation that are similar to those felt elsewhere in the System. The most common impact will be the reduced hiring of seasonal employees or the shortened length of duty tours for these employees as well as scaled back maintenance efforts. While these reductions will no doubt marginally affect the high quality experience that the public has come to expect when visiting the National Park System, the Service has taken steps to ensure that essential services will be available and that a visit to the Utah parks will continue to be a safe, healthy, and enjoyable experience for the public.

17. What are the projected annual operating and maintenance costs for this rural scenic roadway? What will the annual operating costs be? How were these costs determined given the facts that no agreement has been reached regarding the particulars of the project?

ANSWER: As given in response to question #15, the first-year operating costs are estimated to be $800,000, and subsequent years are estimated to cost $450,000 annually. These costs are based on the premise in the legislation that the National Park Service would have all operational responsibilities for the rural scenic road and that the road would consist of about 9.8 miles of paved sections and 56.2 miles of graveled sections, together with an interpretive facility. Within these parameters, the National Park Service was able to project, based on experience, the estimated levels of personnel (7.9 FTE's) and equipment needed to properly provide information and interpretive services, protection and visitor services, maintenance, and administration. However, the structural values used for initial design would largely determine the annual cost to maintain the road. A detailed statement of projected costs is attached.

18. Does the Park Service support the notion of assuming these added costs when it can't even fill existing vacant positions and keep visitor centers open?

ANSWER: With regard to existing visitor centers, there is no proposal to close any visitor centers. With regard to our assuming the additional operational costs for the Burr Trail National Rural Scenic Road, we propose to seek appropriate budget increases to accommodate the operational costs if it is authorized and constructed, or to fund by reallocation from within present levels of funding.

19. What are the construction needs facing the Park Service over the next five years? Does the Service prioritize these needs? Are improvements to the Burr Trail located in the existing Park units on the priority list? If so, where do they rank?

Answer: Construction needs are not estimated on a five-year basis. However, the National Park Service maintains a Servicewide priority listing of construction-related needs identified by parks and Regional Offices. The total dollar value of all construction projects on the priority listing is currently estimated at $1.6 billion. Of this $1.6 billion, $717.7 million has been identified as road- and bridge-related construction needs. The proposed Burr Trail project does not appear on the Servicewide priority list.

20. How many miles of roads in the National Park System are in need of rehabilitation? How much will this cost? Is rehabilitating existing roads a higher priority than taking on new responsibilities for building and maintaining the Burr Trail National Rural Scenic Road?

ANSWER: Of the approximately 8,000 total miles of National Park Service roads and parkways, approximately 50 percent, or 4,000 miles, were rated by the Federal Highway Administration in its 1985 National Park Service Road Inspection Report as being in "poor" condition thereby requiring major rehabilitation or reconstruction. The estimated cost of this work is approximately $990 million. Another approximately 2,400 miles of road were rated as requiring substantial repairs and/or resurfacing.

Of the total 1,400 National Park Service bridges, tunnels, and other structures, 48 were rated by the Federal Highway Administration as requiring reconstruction; and 364 were as classified as requiring major repairs.

We would point out, however, that the money to do this work is usually derived from the Federal Lands Highway Program, a program financed by the Highway Trust Fund. With regard to the the construction and maintenance of the Burr Trail National Rural Scenic Road, the funds have already been appropriated for its construction within the boundaries of Capitol Reef National Park and Glen Canyon National Recreation Area. Therefore, we believe that it should be considered as it is proposed; that is, a new unit of the National Park System. As such, we believe that we can and will be able to balance the needs of existing units with those of the proposed new unit.

21. Generally, how wide is the road? It is true that Director Mott has said that improvements are to be made generally within existing horizontal and vertical alignments?

ANSWER: A road top width of 22 feet is contemplated, which corresponds to the National Park Service Road Standards, 1984. Actual constructed road width dimensions will vary, according to Director Mott, only to the extent necessary to accommodate environmental constraints such as the cliffs, canyons, and streams. Director Mott did give the horizontal and vertical parameters in his letter of November 6, 1985, to Senator Garn, a copy of which is attached.

22. How will you be able to pave the switchbacks in Long Canyon so that 96 inch tour buses can use the road without major changes in alignment?

ANSWER: Dealing with the switchback section, which is in Capitol Reef National Park rather than Long Canyon, will admittedly be very challenging. One option might be to make the switchbacks a one-way section by using traffic control devices.

The Federal Highway Administration, in its cost estimate for paving the entire route as first proposed by the Five County Association of Governments, addressed the switchback section as follows:

"Design Speed

The switchbacks, M.P. 34.45 - 35.70, is a steep narrow 1.25 mile section of road that drops down through the "Water Pocket Fold" rock formation and comes out in the Halls Creek drainage bottom. There are five existing sharp switchbacks in this section with the top four having 30± foot radii and the bottom one a 50± foot radii. The best that can be accomplished is to increase the top four radius to 50± feet and possibly the bottom one to 60-75± foot radius. The design for this section would relate to a 5-10 mph design speed.

"Maximum Grades

M.P. 34.45 - 35.70 - Burr Trail switchbacks - the best that is possible, short of totally rebuilding this section and adding additional switchbacks, is to maintain the existing grades of 11-13 percent between the switchbacks and flattening the grades in the turns as much as possible.

"Earthwork Construction

The Burr Trail Switchback area is an extremely difficult area with unstable backslopes and earthwork is based on following the existing road, flattening the sharp curves and getting as much width as possible between curves without totally excavating the full switchback area. This should provide a minimum 50-foot radius curves, a 20- to 26-foot paved roadway with little or no ditch and 11-13 percent grades. This is a total deviation from AASHTO standards, but to build an acceptable AASHTO standard would be extremely costly, increase geologic slide hazard, and totally destroy the aesthetic qualities of "The Switchback Area."

"Cost Estimate

The costs in Section 2 include the switchback area. We have estimated this 1.25 mile section from M.P. 34.45 to 35.70 will cost approximately $4.1 million. This area will require considerably more detailed study before the final solution on how to improve this section is selected. The costs could be conceivably much higher or possibly lower. In order to achieve the minimum 20-foot paved section as shown in Attachment "E", the costs and impacts may be so prohibitive that a decision would be made to utilize a one-way roadway on one or two of the switchback legs. This approach would reduce the cost of this section considerably. (NOTE: This is the approach that we favor.)

"Burr Trail Switchbacks

This section, from M.P. 34.45 - 35.70, has been discussed at some length in various sections of this report. It appears that whatever type of road is built will be less than

> recommended AASHTO Standards. This being the case, the owner of this road should take appropriate measures to warn the unwary travelling public of the type of facility they will be travelling on. This could include, as a minimum, special signing at each end of this route, the tops of the switchbacks and at the junction with the Notum Road. They may want to consider a forced stop situation at the top of the switchbacks and also at the junction with the Notum Road. Appropriate turn-arounds would be provided at these two locations. This would provide a fairly positive approach to informing the traveller to what lies ahead and give him an opportunity to go back if he chooses to do so. The owner may also elect to prohibit certain types of vehicles from driving over the switchback area."

23. In your testimony before the Committee on April 11, you indicated that the National Park Service wants an opportunity to comment further on the proposal after it had a chance to review the measure more thoroughly. When can the Committee expect those additional comments.

> ANSWER: The Administration will transmit additional comments once the final technical and legal review within the Department and the Office of Management and Budget has been completed.

DRAFT - 6/23/86

GRANT AND CONTRACT

Between

National Park Service

and

State of Utah

RELATING TO THE ESTABLISHMENT, OPERATION, AND ADMINISTRATION OF THE BURR TRAIL NATIONAL RURAL SCENIC ROAD

This Grant Agreement and Contract (hereinafter "Contract") is made and entered into this ________ day of ________________, 1986, by and between the National Park Service, Department of the Interior ("Service") and the State of Utah ("State").

WHEREAS, the Act ("Act") of ________________, 1986, (Public Law 99-______; ____ Stat. ______) authorized the establishment of the Burr Trail National Rural Scenic Road ("Road") as a unit of the National Park System; and

WHEREAS, the Act authorizes the Secretary of the Interior ("Secretary") and the State to enter into a contract, and requires the Secretary and the State to certify that adequate lands and funds are available to initiate fulfillment of the purposes of the Act before the Road becomes part of the National Park System or before construction may proceed; and

WHEREAS, the Secretary is authorized to accept from the State a donation, in fee simple, for the Road and its appurtenances, which averages 100 acres per mile, subject to such reverters and conditions as the Secretary determines may be consistent with the administration and management of the Road; and

WHEREAS, the necessary lands have been conveyed by deed from the State to the Secretary, and title to the lands has been accepted by the Secretary; and

WHEREAS, both parties to this Contract desire to cooperate to fulfill the purposes of the Act in a timely manner; and

WHEREAS, the State has entered into an appropriate counterpart contract and/or agreement with Garfield County, which is necessary for the State to meet its obligations and duties under this Contract; and

WHEREAS, the State has identified a minimum of $3.1 million to fund its initial portion of the project; and

WHEREAS, the Service has $7.705 million available to fund its total portion of the obligation to the project which is located within Capitol Reef National Park and Glen Canyon National Recreation Area; and

WHEREAS, both parties have concluded and certified to each other that adequate lands and funds are available for the design and construction of the Road;

NOW, THEREFORE, it is agreed as follows:

I. DEFINITIONS:

The Following words when used in this Contract shall have the following meanings:

A. "Road" means and refers to the Burr Trail National Rural Scenic Road, extending sixty-six (66) miles, more or less from the junction of State Highway 12 in the town of Boulder, Utah, on the west, to the junction of State Highway 276, near the town of Bullfrog, Utah, on the east, as identified on the map referred to in section 1(a) of the Act of ________________.

B. "Vehicle" means every device in, upon or by which a person or property is or may be transported or drawn on land, except snowmobiles, devices moved by human power, or used exclusively upon stationary rails of track.

C. "Scenic Foreground" means those lands transferred to the Secretary from the State by Deed pursuant to Section 3(b) of the Act of ________________.

D. "Construction and Maintenance to the Road" means the following:

1. Final Surface Requirements.

a) Mile 0.0 to Mile Post 2.4 - Existing paved surface will be maintained.

b) Mile Post 2.4 to Mile Post 8.8 - Gravel surface (end of existing paving to top of Gulch).

c) Mile Post 8.8 to Mile Post 17.1 - Paved surface (top of Gulch to bottom of "Blues" Section).

d) Mile Post 17.1 to Mile Post 34.0 - Gravel Surface (bottom of "Blues" Section to Muley Twist Wash).

e) Mile Post 34.0 to Mile Post 35.2 - Concrete paved section (switchbacks).

f) Mile Post 35.2 to Mile Post 65.9 - Gravel surface (from Halls Creek to Highway 276).

2. Grade, Alignment, and Road Section.

The grade, alignment, and road section shall follow the existing road as closely as possible subject to the standards outlined in the "Park Service Road Standards" in existence or as may be amended.

3. Hydraulic Structures.

Bridges will be constructed at Bullfrog Creek and Horse Canyon. Concrete dips or other appropriate drainage structures will be installed at Deer Creek, the Gulch, Muley Twist, Halls Creek, and other locations as needed.

4. Modifications.

Modifications upon approval of both parties shall be allowed to surface requirements, grade, alignment, road section, and hydraulic structures due to engineering and environmental considerations.

II. THE SERVICE, SUBJECT TO THE AVAILABILITY OF STAFFING, FUNDING AND SUBJECT TO PROVISIONS OF PUBLIC LAW 99-177 (Gramm, Rudman Hollings Law), AGREES THAT:

A. Final authority is retained by the Service for review and approval of all architectural and engineering proposals, preliminary plans, and construction and contract documents before award of design and construction can begin.

The Service further agrees that it will:

B. Retain the final authority to review and approve any and all orders submitted by the State prior to negotiation and execution.

C. Perform timely review and approval of all proposals, plans, construction and contract documents, and all orders. Review and approval shall be accomplished in 30 calendar days from receipt of the documents. If a longer period is required NPS will notify the State and explain the reason for the delay.

D. Perform the review and approval of all proposals and plans for design and construction based on standards and policies found in the document entitled "Park Road Standards" which are in existence or as may be amended, and which are made part of this contract and Part I.D.2 of this Grant-Contract. See Appendix "A".

E. Cause to be transferred necessary funds to the State, in the form of a grant, to be used for the design, contract administration, and construction of only those Road segments within Capitol Reef National Park and Glen Canyon National Recreation Area.

F. Review and approve within 30 calendar days from the date of receipt of the documents, any comprehensive liability insurance obtained by contractors on behalf of the State that names as the insured party the United States of America.

G. Provide interim and final inspection and approval on all construction phases for the Road and appurtenances.

H. Promulgate regulations for traffic and public use. Provided, however, the NPS may, if necessary, acquire by purchase, exchange, or donation, access rights deemed incompatible with the administration of the Road. Provided further, the NPS will not deny access to the road by buses, stock trucks, or state maintenance vehicles.

I. Maintain the surface of the road in a reasonable condition for the safe passage of vehicles, taking into consideration weather and other natural topographical conditions. General maintenance of the road will be in accordance with the document entitled "Park Road Standards" that is incorporated and made part of this Contract.

J. Build, operate, and maintain an interpretive facility in Boulder, Utah.

K. Pursue the development of support facilities of Capitol Reef National Park and Glen Canyon National Recreation Area as indicated in the approved General Mangement Plans, as amended, which are needed for visitor use and maintenance of the Road.

L. Mitigate activities which would impair the scenic and natural values of the Road.

III. THE STATE AGREES THAT IT SHALL:

A. Procure and issue engineering services and construction contracts through full and open competitive procurement practices for any portion of the Road under the terms of this Contract.

B. Provide written notice of actual commencement of construction work on the Road to the Service at least twenty (20) working days before work begins.

C. Ensure that all work will be done in accordance with the plans and specifications submitted to and approved by the Service.

D. Provide to the Service monthly construction progress reports.

E. Submit orders to the Service for review and approval prior to negotiation and execution.

F. Mitigate activities during construction which would impair the scenic foreground.

G. Construct integral with the Road design, those special structures and features agreed to by the Service and the State as being required to minimize environmental and visual impacts.

H. Complete those activities necessary to provide rehabilitation of impacted areas resulting from construction of the Road.

I. Control public access to the Road during construction.

J. Require contractors to save, hold harmless, and indemnify the United States of America, its agents and employees for losses, damages, judgments, expenses, claims, disputes and liens on account of or by project contractors, or their workmen, materialmen, suppliers, or any of their employees, or agents, or on account of personal injury, death, or property damage of any nature whatsoever and by whomsoever made, arising out of or in connection with any aspect of the design or construction of the Road and its appurtenances for which they provide services.

K. Require its project contractors to obtain and maintain comprehensive general liability insurance, which shall be submitted for review and approval by the Service, for personal injury, death, and property damage and shall name the United States as the injured party.

L. Ensure compliance with all applicable Federal, State, and local laws, regulations, codes, and permitting requirements.

M. Seek additional funds, as necessary, for the completion of those portions of the Road outside of the boundaries of Capitol Reef National Park and Glen Canyon National Recreation Area.

IV. FUNDING AND GRANT OBLIGATIONS AND ADMINISTRATIVE PROVISIONS:

A. The Service shall process payments, in the form of a grant, to the State to carry out its responsibilities of the Act of ________ on a reimbursable basis through a Letter of Credit for work accomplished or obligated under this Contract. This grant will constitute the only payment to the State to complete the described work on the Road. The Service shall reserve to itself necessary funds to carry out its responsibilities, under this Contract. The Service shall provide interim and final fiscal review of funds granted to the State, as required in the Administrative and General Provisions of this Contract.

B. The Office of Mangement and Budget (OMB) has established uniform procedures for financial and technical reporting as outlined in the General Provisions section, which is appended in Appendix ____. Further, OMB Circular A-110, 41 F.R. 32016 (July 30, 1976) requires the following paragraphs, which are appended in Appendix __________, and which control the administration and reimbursable cost under the grant.

1. Retention and Custodial Requirements for Records
2. Monitoring and Reporting Program Performed
3. Closeout Procedures
4. Suspension and Termination Procedures
5. Standards for Financial Management System
6. Financial Reporting Requirements
7. Bonding and Insurance
8. Procurement Standards

C. Reports shall be sent to:

Regional Director
Rocky Mountain Regional Office
National Park Service
655 Parfet Street
P.O. Box 25287
Denver, Colorado 80225

V. GENERAL PROVISIONS:

1. No Member of or Delegate to Congress, or Resident Commissioner shall be admitted to any share or part of the Contract or to any benefits that may arise therefrom, but this provision shall not be construed to extend to this Contract if made with a corporation for its general benefit.

2. This Contract is subject, in whole or in part, to all applicable Federal, State, and local laws, regulations and codes and shall be interpreted in accordance therewith. In the event of any conflict between the terms of this Contract and any such law, regulations, or code, the terms of the law, regulations, or code shall supercede the terms of this Contract.

3. Invalidation of any one term or provision of this Contract by judgment or court order shall in not affect any other provision, and the remaining provisions shall remain in full force and effect.

4. No part of this contract, which has been entered into pursuant to section 1(b) of the Act of ________, shall be assigned.

5. The parties will abide by the provisions of Executive Orders 11246 and 11375, which are attached as Appendix ____ and made a part of this Contract. The parties will not discriminate in the selection of contractors or employees for any service required to accomplish the purposes of the Act of _________ on the grounds of race, age, creed, color, sex, or national origin, and will observe all the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. 2000(d)).

6. No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation; but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to Members of Congress on the request of any Member of Congress, through proper channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business. Whoever, being an officer or employee of the United States or of any department or agency thereof, violates or attempts to violate this section, shall be fined not more than $500 or imprisoned not more than one year, or both; and after notice and hearing by the superior officer vested with the power of removing him, shall be removed from office or employment. (June 25, 1948, Ch. 645; 62 Stat. 792).

IN WITNESS WHEREOF, the undersigned have executed this Contract on the date and year first above written.

NATIONAL PARK SERVICE	STATE OF UTAH
By ______________________	By ______________________
Director	Governor

DRAFT - 6/23/86

DEED

The State of Utah, Grantor, hereby conveys in fee simple and warrants to the United States of America, Grantee, as a donation, subject to existing easements of record for public roads and highways, utilities, railroads, and pipelines and subject to the conditions of this Deed the following described tracts of land located in Garfield County, Utah:

LEGAL DESCRIPTION

Said tracts of land are also depicted on the attached map numbered _______, which is incorporated and made part of this Deed. In case of a conflict between the map and the description, the description shall be controlling.

The grantee shall maintain the Burr Trail National Rural Scenic Road (Road) in accordance with "Park Road Standards" document which is made part of the Deed and incorporated therein.

In the event the Grantor in its sole discretion deems that Grantee has failed to maintain the Road in accordance with the park road maintenance standards, Grantor shall deliver to Grantee a "Notice of Failure to Conform" which shall state in writing the nature and extent of the failure to conform to the park road maintenance standards and the actions necessary to cure the failure to conform to such standards. The Notice of Failure to Conform shall be sent to:

Regional Director
Rocky Mountain Regional Office
National Park Service
655 Parfet Street
P.O. Box 25287
Denver, Colorado 80225

Grantee shall have 30 days from the date of such notice within which to cure any failure to conform as outlined in the Notice of Failure to Conform.

In the event Grantor fails to correct the maintenance defects delivered by the Grantee, and 10 or more notices of failure remain uncompleted in any (2) consecutive years, Grantor may at its option request the Congress of the United States to deauthorize the Burr Trail National Rural Scenic Road as a unit of the National Park System and to convey to the Grantor those lands and improvements transferred pursuant to this Deed.

Witness the hand of said Grantor, this __________ day of __________, 1986 A.D. In the presence of __________________.

____
GOVERNOR
STATE OF UTAH

State of Utah)
County of _________)

On the ______________ day of ___________, 19__, personally appeared before me ______________________, the signer of the above instrument, who duly acknowledged to me that he executed the same.

____
SIGNATURE/TITLE OF OFFICER

[SEAL]

My commission expires the ______ day of ______, 19__.

United States Department of the Interior

NATIONAL PARK SERVICE
P.O. BOX 37127
WASHINGTON, D.C. 20013-7127

IN REPLY REFER TO:
D66(190)

NOV - 6 1985

Honorable Jake Garn
United States Senate
Washington, D.C. 20510

Dear Senator Garn:

I was pleased to view the Burr Trail with Representative Hansen on October 4. It is my belief that one has to view the situation on the ground to understand the range of opportunities available.

I would propose that the entire length of the trail become a rural scenic road maintained by and under the jurisdiction of the National Park Service (NPS). The road would generally adhere to the present horizontal and vertical alignment and cross section but would be improved to an all-weather gravel surface.

The most critical portions of the road should be paved to maintain public safety and prevent further erosion. These portions include switchback sections along the road corridor. The 6,000 foot-long section in the creek bed on the east side of Capitol Reef National Park would be rerouted to the adjacent bench so that it becomes all-weather. A bridge would be constructed over Bullfrog Creek and other crossings would be hardened to permit travel during and after high water periods. The NPS would recommend construction of an interpretive center in Boulder. Construction of the center should encourage further complementary development there.

Garfield County would transfer its interest in the road to the NPS. We, in turn, would negotiate any necessary agreements with the Bureau of Land Management. The NPS would be responsible for appropriate environmental compliance. While I do not have a detailed estimate, I believe construction of this rural scenic road could be accomplished at less cost than estimates for complete paving and realignment of the present road.

If we can agree on this concept, the details can be worked out. I look forward to your participation in the discussion.

Sincerely,

William Penn Mott, Jr.
Director

Similar letter to:
Hon. James V. Hansen (House)
Hon. Orrin Hatch (Senate)
Hon. Norm Bangerter (Govern
Hon. Howard C. Nielson (H
Hon. Daniel A. [illegible]

"To obtain authority to engineer and construct the Burr Trail National Rural Scenic Road"

ADDITIONAL STAFFING REQUIRED TO OPERATE LANDS AND DEVELOPMENTS ADDED BY THIS PROPOSAL

a. Information/Interpretation Services:

Season approx. 4/15 through 10/31

1.0 FTE, Temporary Appointments

One GS-025/5, full time for 14PP	$8,300
One GS-025/4, part time (32 hr/wk) 14 PP, hired locally.	3,300
Several GS-025/3, intermittent for total of 32 hrs/PP for 14PP hired locally.	2,800
4-6- VIPs to augment staff and keep V.C. open 8:00 to 6:00 daily, recruited locally.	800
subtotal	15,200

b. Protection and Visitor Services:

1.4 FTE

One GS-025-5/7, PLFT, STF-10 month appointment.	$16,800

"To obtain authority to engineer and construct the Burr Trail National Rural Scenic Road"

Additional Staffing (continued)

One GS-025/5, Temporary Fulltime, 15 PP, 50% of time in Fruita Area to replace time now spent by South District Ranger in Fruita Area		9,100
	subtotal	25,900

c. Maintenance

4.5 FTE

2 Heavy Duty Equipment Operators	WG-10	$55,000
2 Motor vehicle Operators	WG-7	50,000
0.5 Motor vehicle Operator	WG-5	11,200
Supervision/Transportation		10,000
Overtime/holiday/etc.		5,000
	subtotal	131,200

d. Administration

1 FTE

Administrative Clerk	GS-5	$15,400
TOTAL	7.9 FTE	$187,700

"To obtain authority to engineer and construct the Burr Trail National Rural Scenic Road"

PERSONAL SERVICES PROGRAM FOR ATTRIBUTABLE COSTS: INCLUDING INITIAL OFFICE EQUIPMENT AND OPERATING EQUIPMENT SCHEDULES

a. Annually Recurring Costs

1. Interpretation/Information Services	
Supplies and Materials, Wayside Exhibits	$3,000
Vehicle mileage	500
2. Protection and Visitor Services	
Supplies and Materials	3,000
GSA vehicle rental & mileage - 4WD patrol vehicle	5,000
Travel & per diem within district & training	2,500
3. Maintenance	
Equipment repairs	$6,000
Diesel Fuel	12,000
Grader Blades	3,000
Oil, Fluids, grease, tires, etc.	4,000
Road base, crushed rock for washouts	115,000
Dust Pallative	12,000
Rent mileage on GSA vehicle - 4WD pickup	8,000
Miscellaneous	15,000
Building Utilities	10,000

"To obtain authority to engineer and construct
the Burr Trail National Rural Scenic Road"

Attributable Costs (continued)

4. Administrative Support	
Equipment Maintenance	$ 250
Travel	250
Supplies and Materials	2,000
Telephone - rental & long distance	4,000
Uniform allowances	2,000
5. Management Oversight	
Additional travel attributable to Burr Trail SRD	$2,500
Annually Recurring Costs - Total	$257,000

b. One-time Costs (capitol equipment)	
Grader	95,000
Front-end Loader, back-hoe	45,000
10-Yard Dumptruck	55,000
Low-boy trailer	14,000
Water truck (5,000 gallon capacity)	60,000
Snow-plow blade	8,000
Miscellaneous equipment and tools	12,000
Office furniture & equipment	6,000
Telephone system	25,000
Radios-base unit, vehicle radios, portable radios, and a repeater	30,000
One-time costs - Total	$350,000

"To obtain authority to engineer and construct the Burr Trail National Rural Scenic Road"

COST DATA AND MAN-YEAR STATEMENT

Total annual operating costs associated with operating the Burr Trail National Rural Scenic Road, exclusive of initial construction costs and one-time costs:

Staffing (7.9 man-years)	$187,700
All other annual costs	257,000
Total annual operating costs	$444,700

"To obtain authority to engineer and construct the Burr Trail National Rural Scenic Road"

PROGRAM SUMMARY FOR ATTRIBUTABLE COSTS

a. Annually Recurring Costs	$444,700
b. One-time Costs (capital equipment)	350,000

QUESTIONS FOR THE RECORD REGARDING S. 2265

Submitted by Senator Bingaman

1. What environmental studies have been completed on this project? Are there any studies ongoing? Have these studies adequately dealt with all of the potential impacts? If not, what additional information is needed?

ANSWER: The National Park Service (NPS) and the Bureau of Land Management (BLM) prepared the Paving the Boulder-to-Bullfrog Road Environmental Assessment (EA). The assessment utilized information from a number of earlier studies by both agencies as listed in the bibliography for the assessment. Attached is a copy of the EA and its Supplement.

Although not directly related to the road proposal, Capitol Reef National Park has a cooperative study in progress with Utah State University on the movements and habitat of thirty (30) transplanted desert bighorn sheep. The Bureau of Land Management has its Utah Statewide Wilderness Draft Environmental Impact Statement (EIS) on public review with comments due in August, 1986. On April 16, 1986, the National Park Service initiated a formal Section 7 consultation with the Fish and Wildlife Service as required by the Endangered Species Act, regarding the proposed improvement of the Burr Trail.

The above-mentioned studies do not adequately deal with all the potential impacts. For example, the bighorn sheep study is a long-term project which could reveal effects that construction activities and traffic might have on the sheep. The wilderness EIS will need a record of decision by BLM on wilderness recommendations to be made to Congress; the boundaries of such recommendations may affect the parameters of road construction and borrow areas. A biological opinion would be needed from the Fish and Wildlife Service for any species determined to be affected by the proposal. A sampling of archeological resources was undertaken by BLM; but a complete archeological survey is needed. Section 404 permits may be required for areas such as Deer Creek, The Gulch, and Bullfrog Creek. Further site-specific engineering surveys would be needed, including: the location and construction of borrow areas and haul roads servicing them, extraction of borrow, and reclamation of the borrow areas and service roads; the mitigation of water runoff problems in The Gulch and Long Canyon; the effect of the road on wilderness study areas; the sensitive requirements of construction in Muley Twist Wash and the Burr Trail switchbacks; and the relocation of over a mile of the road along Hall's Creek in Capitol Reef National Park.

2. Has the Park Service issued a Finding of No Significant Impact (FONSI) on this issue? How did the Agency do this when there are unresolved issues? Didn't the FONSI state that the Environmental Assessment took a broad approach and that more detailed information was needed on such factors as the effects resulting from the construction of borrow areas and service roads; the effects of construction on the switchbacks; or the impact on endangered species and archaeological resources?

ANSWER: The National Park Service and the Bureau of Land Management issued the FONSI on December 9, 1985. The FONSI does acknowledge a broad approach, and also states that if "additional required plans and clearances are undertaken and completed, any adverse environmental impacts that were identified would be mitigated as appropriate." A copy of the FONSI is attached.

As many mitigation measures as possible were incorporated into the EA, on the premise that as others were identified, they would be implemented if the project went forward. The concept was that such measures would keep impacts below a threshold which would require an environmental impact statement.

3. Did the EA analyze the effect of the road being used for commercial hauling for tar sands or coal development? Did the EA look at the impact of mineral development on the area? Did the EA assess the effects of commercial development on the state sections of land?

ANSWER: The EA and Supplement identified and discussed the issues of mineral development and commercial hauling, especially for the proposal originally espoused by the Five County Association of Governments; e.g., to pave the entire route. The EA also refers readers to the BLM land use plans (listed in the bibliography) which analyze these issues. One comment refers to the analysis given in the Circle Cliffs Tar Sand EIS, which is also listed in the bibliography. The EA Supplement indicates that the Circle Cliffs document appropriately analyzed such impacts, rather than the Paving the Boulder-to-Bullfrog Road Environmental Assessment. However, the EA (page 49) does recognize that there is potential demand for such land uses including commercial leasing of state lands, and suggests as a mitigating measure that BLM, NPS, the State, and Garfield County develop appropriate management policies relating to land use along the roadway. Further, the EA (page 55) points out that such management decisions could be structured to avoid impacts (e.g., exclusion of some commercial activities). The EA (page 55) also recognizes that the potential exists for future changes in agency land management direction which could allow for uses of the Burr Trail in ways other than as a scenic road.

If the road requirements change to include commercial hauling, then design parameters (horizontal and vertical alignment and structural cross-section) would substantially change the scope of the environmental impact.

4. Did the National Park Service professional staff recommend that an EIS remain a consideration until additional environmental analyses were completed? Have these analyses been completed?

ANSWER: Yes. The document entitled "Recommendations of the National Park Service Concerning the Boulder-to-Bullfrog Road, Utah" includes the following statement on page 5:

> "The Bureau of Land Management believes that the environmental assessment sufficiently addresses the key aspects of the environmental consequences associated with the improvement alternative. The National Park Service believes that until those further environmental studies and clearances outlined above are completed, an environmental impact statement must remain a consideration."

Such further analyses have not been completed (see answer to question #1 above). A copy of the recommendation is attached.

5. Section 3(a)(2)(b) of the bill calls for a reverter so that the State may take control of the road under certain conditions. For example, if the road were not adequately maintained by the Park Service, the State could attempt to take control of the road. Does the National Park Service support having a reverter in the deed? Has the Solicitor's Office ruled on the legality of such a reverter? Has the Park Service received land under similar conditions? If so, how much land in the National Park System is subject to a reverter?

ANSWER: We would not support reverter language in the deed or in the legislation itself that operated to convey the road through the State to the County for any reason except that the road is no longer being administered as a unit of the National Park System. Further, we would see any reversion to the State as requiring an act of Congress to deauthorize the road as a unit of the National Park System. The Solicitor's Office advised on December 13, 1985, that "The NPS responsibilities to maintain the road should be very carefully spelled out to avoid disagreement as to whether or not any right-of-way transferred to the NPS will revert to Garfield County. You should have a notice requirement before the State could initiate an action to revert the property." That Office also advised that any reverter provisions should be expressly authorized by Congress. Thus, we believe a reverter could be made legally enforceable; however, the trigger should be deauthorization by Congress. We believe there are instances where the National Park Service has received land with a reverter provision. Three examples include the Jackson Hole Airport in Grand Teton National Park; the Southwest Regional Office in Santa Fe, New Mexico; and Gulf Islands National Seashore.

SUPPLEMENT TO THE ENVIRONMENTAL ASSESSMENT
PAVING THE BOULDER-TO-BULLFROG ROAD

Introduction

This supplement to the environmental assessment (EA) reflects public comment on that document since its release in early May, 1985. The following table summarizes the number of verbal comments presented at public meetings held on May 22-24, in southern Utah by the National Park Service, and written comments that were received. The table only reflects the general opinion in the comments as to the degree of improvement that should be made to the Boulder-to-Bullfrog road:

Comment Source	For Paving	Against Paving	Limited Improvement	Total
Verbal only, So. Utah meetings	32	5	6	43
Written	107	131	34	272

The written comments noted above do not include letters which represented more than one person. These were six petitions signed by 785 persons, all in support of paving the road; four other letters with 13 names favoring paving; two letters with 33 names opposing paving; and letters representing the comments of 38 organizations such as conservation groups and chambers of commerce (29 for paving; 9 against paving). In addition, a transcript was received of a privately-sponsored meeting held May 27 in Salt Lake City. That transcript shows one verbal comment for paving, 19 verbal comments against paving, and eight verbal comments favoring limited improvement.

We wish to thank those who attended the meetings and those who wrote to express their opinions. All letters, including those with general opinions not quoted in the EA, are available for inspection at the National Park Service, Rocky Mountain Regional Office, 655 Parfet Street, Denver, Colorado 80225.

It was impractical to duplicate all written communications (many had several pages each) and still provide a coherent and concise summary of comments. Therefore, this supplement quotes extracts from selected letters. Selection of extracts was based on coverage of frequently discussed issues and key aspects relating to deficiencies in the EA.

Quoted comments are grouped by subject matter in sections conforming to the original layout of the EA. The numbers at the end of each quote indicates its origin; refer to the end of the supplement for the names of the writers. The National Park Service and Bureau of Land Management response to these comments is found at the end of each section.

Purpose Of And Need For Action

Here, the environmental assessment (EA) must specify the underlying purpose and need in proposing the alternatives.

Comments:

"... the section of the (DEA) called "Purpose of and Need for Action" is not very persuasive... (80)

"... the correct work is 'facilitate,' not 'accommodate.'" (182)

"There is a perceived need on the part of local government officials to accommodate increased tourism activity in the region. Since no evidence is presented in the EA indicating an increase in tourism requiring the paving of the road has occurred (or will) this can only mean the paving of the road is perceived as a means of increasing tourism above current levels. Thus, the main purpose for the project is to improve the economic basis of the area by attracting new tourists, who would otherwise not visit the area. While this may be a legitimate purpose for Garfield and Kane County Governments, it is difficult to understand how such a purpose can be justified for the National Park Service, especially when the adverse environmental effects on Capitol Reef National Park are considered. The mission of the NPS is to protect the national parks, not to promote the economic welfare of the adjacent area." (206)

"Local governments have expressed more than a 'perceived' need, it has been a well documented need for at least five years. The wording must be changed to reflect these long standing policies. We suggest replacing the word 'perceived' to 'well documented.'" (50)

"According to the (DEA), the main justification for paving the road is the belief held by local officials and residents in Garfield and Kane Counties that a paved road would greatly increase tourist revenues in those counties. The additional justifications that travel distances for certain officials and residents are 'significantly increased' in bad weather and that medical and educational facilities would be improved seem contrived." (160)

"The DEA accepts claims made by paving proponents that the tourism economy of southern Utah will benefit greatly from paving. This is done without solid statistical analysis. There is no real evidence of what effects paving will have on the economy of southern Utah." (84)

"On page 1, the EA reasons that distances to medical and educational facilities would be improved and travel distances for county officials would be shortened by paving. In using this reasoning, the EA is trying to justify paving by grasping at straws. The nearest major medical help is in Richfield and Panguitch. Richfield via Hanksville is only 15 miles farther from Ticaboo or Bullfrog than Panguitch via a paved Burr Trail. Highway speeds are much faster via Hanksville, making Richfield as close or closer time wise. I cannot think of any educational facilities that would be better accessed by the Burr Trail and the EA makes mention of none. County officials can drive the Burr Trail 90% of the time now and the Boulder Mountain road on those rare occasions where it is impassable." (204)

"It is noted that county officials and residents 'must travel long distances to medical and educational facilities.' But that is the beauty of this area; the wild, open spaces! If they don't like it they can move to L.A. If higher income is what they want they can go to SLC or New York." (198)

"My understanding of CEQ regulations on NEPA is that an EA is prepared when you are uncertain as to the need for an EIS. It appears to me that the data gathered to prepare this EA show that significant impacts will occur if the road is paved. Therefore a decision to prepare an EIS should have been made without publishing the EA * * *." (270)

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Responses:

This section responds to the Congressional request that an EA be prepared for the proposal to pave the road from Boulder-to-Bullfrog in southern Utah. The proposal was not initiated by any Federal agency. Rather, the paving proposal is based on the report prepared by Creamer and Noble Engineers and the Five County Association of Governments, and the purpose and need for the project are therefore extracted from that document. The agencies that prepared the EA (National Park Seravice (NPS) and Bureau of Land Mangement (BLM)) recognize that there are those who do not agree with the report's view of the purpose and need for paving. Nevertheless, this is the proposed action which brought about the Congressional request for an EA, not an environmental impact statement (EIS).

Agency Responsibilities and Issues

This section presented the issues and concerns outlined during the scoping process.

Comments:

"Page 3, Subparagraph 1. The Boulder-Bullfrog Road will not be designated as a haul road; therefore, the statement that exploitation of these resources may have impacts on the nature and extent of traffic on the Boulder-to-Bullfrog Road, is not germane to the proposal and should be removed." (50)

"Page 3, Subparagraph 2. The Capitol Reef General Management Plan states 'there currently exists a 69 kilovolt transmission line corridor through the headquarters area and a telephone line corridor that will be combined into a single utility corridor.' The plan goes on to state 'Another potential utility corridor, the North Coleman Canyon (Dry Bench) route, has been selected in the South District of the park.' The paragraph should reflect the statements in the management plan on identified corridors and that the Burr Trail section of the road has not been identified as a utility corridor." (50)

"Page 4, Subparagraph 4. The statement that 'A change in the road condition and the corresponding increase in use could alter the feeling of solitude and isolation that is associated with the area' is purely conjecture since motorized travel currently occurs through the area. If solitude and isolation are suspected to be impacted, then the impact should be quantified and placed in the impact section and not in the summary of the Capitol Reef General Management Plan which does not state an impact on solitude and isolation with changes in the road condition." (50)

Page 6, fifth paragraph add: "On April 12, 1985, the Interior Board of Land Appeals (IBLA) ruled that portions of the appealed Mt. Pennell inventory unit be considered part of the Mt. Pennell WSA. The Mt. Pennell WSA is contiguous to the proposed road project for 7.4 miles between the east side of Capitol Reef National Park and the junction of the road at Eggnog." (196)

"Page 6, sixth paragraph, say, '(especially game species including bison),' since bison are considered a big game species in Utah." (196)

"Page 9, second paragraph. Human occupation of the Waterpocket Fold and associated area began over 8,000 years ago; not 1,000 years ago." (196)

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Responses:

Regarding the comments for page 3: although the proponents of paving have generally opposed future use of the road for hauling and as a utility corridor, there is no legislation preventing its use for those purposes. Because these had been identified as potential issues, they are appropriately included in the EA.

The wilderness issue was of great concern to many people (comment for page 4). "Solitude and isolation" are difficult to quantify, but the issue is real and must be considered.

The comments for pages 6 and 9 provide information not previously made available to the preparers.

Alternatives

This section describes the proposed action (Alternative I Pave entire route) and other alternatives brought out in the scoping process.

Comments:

"Alternative IV is biased by not quantifying the amount of 'wet weather' that makes the Burr Trail impassable . . . Road closures are infrequent.'" (144)

"The road survey and design information for (Alt. I-a) is totally inadequate, e.g., is the 'typical 26-foot road bed' the same as a 'standard 26-foot pavement section' (page 19)? What are the design specifications for the six bridges? The Appendix uses subjective words to define the subjective definition of road construction e.g., larger diameter pipe, major drainages, short distances, large amounts of rip-rap; what do these terms mean? How many feet of road realignments proposed? How large is a large culvert (p. 19)?" (218)

"The DEA states that Alternative III ("Limited Improvement") would provide safe passage between Boulder and Bullfrog about 90 percent of the time, but it doesn't specify which 10 percent of the time safe passage would not be provided. The road is safely passable 90 percent of the time now. Surely the improvements specified in Alternative III would provide for safe passage more than that." (232)

"As indicated by the several alternatives analyzed in the EA, there is more than one way to achieve this desired goal. However, it is on this point that we feel the EA has been somewhat deficient. The alternatives do not allow for enough latitude in design specifications to further minimize environmental impacts and, more importantly, project costs . . . We think that the specific design of stream crossing structures should be fiscally conservative and environmentally sensitive. There is no need to overbuild if a more simple and less costly design can serve the same purpose. In this same vein, the width of the paved road is crucial in resolving both environmental impact and cost issues. For example, if a 21 foot wide road through Long Canyon will do the job, why construct a 26 foot wide road? The wider road will involve greater environmental impacts and will obviously cost much more. Also, there is no need to reconstruct the road prism in the gently rolling terrain to provide an even grade. Less costs and impacts will result if the undulating roadway is retained. We do not think we need to be constrained by convention in paving a low speed scenic road. Common and fiscal sense ought to prevail. Low speed scenic road construction designs ought to be able to depart from conventional road design standards to accommodate the special circumstances which exist. The result could be the desired goal of an all-weather route, one which retains all of its scenic and environmental attributes and one we can afford to build." (262)

"Very little data has been gathered on the current transportation system. Comprehensive measurement of traffic on the existing route and regional routes is not presented in this proposal. The alternatives only consider one link in the transportation system." (230)

"There was no model of the regional transportation system developed or used in this analysis. It is impossible to judge the relative impact of the road system on use without this analysis. It is also impossible to make supportable conclusions on the benefits of construction of the (Alternative 1-a) proposal." (230)

- - - - -

Responses:

Regarding the comments on road survey and design information: some of the more detailed design information can be obtained from the report prepared for the Five County Association of Governments available from their offices. It was believed to be beyond the scope of the EA to completely duplicate that large document.

Comments on the frequency of closure are well taken. We do not have precise long-term data for this.

Regarding the comment on the scope of the alternatives - intermediate versions of the various engineering proposals are possible. The focus of the EA was directed at those proposals offered early in the scoping process. The quoted comments are worthy of future consideration, but we believe must also be weighed against long-term stability of the road and future maintenance requirements.

With regard to the comments on transportation system analysis and other additional planning and engineering needs, note that Alternatives I-a and I-b are based upon preliminary engineering reports only. A regional transportation system for this area has not been prepared and is considered to be beyond the scope of this EA.

Affected Environment

This section documents in general terms the existing environment along the road from Boulder-to-Bullfrog.

Comments:

"Elk are not known in the areas adjacent to the Boulder-to-Bullfrog road (page 34). This is false. I have a photograph of 120 Elk along the road. Elk use a 6 mile stretch of the road during winter migration to benchlands south of the Burr Trail. Also Pronghorn Antelope do occur in the Excalante Canyons in Garfield County (on Antone Ridge) and there is no mention of the wildhorse herd around Wagonbox Mesa and near the Burr Trail." (249)

"The Cultural Resource section under the Affected Environment is overly simplistic. The third paragraph is not an accurate summation of the Anasazi culture along the western half of the Boulder-to-Bullfrog Road. A Kayenta-Anasazi site was identified near Boulder by Noel Morss in 1929; it is a misleading statement to say that the Anasazi was not known to be present in the area until recently. It is true that there is little known about the Anasazi culture within the area transversed by the Burr Trail road." (196)

"A conscientious and lawful approach to evaluating impacts to cultural resources requires the NPS to admit the extremely limited and inadequate character of the existing surveys for the purpose of evaluating both the direct and indirect impacts from the proposed paving project to cultural resources in the area. Section 106 of the National Historic Preservation Act, 36 CFR 800.4 and 800.6 and Section 2 of the Executive Order 11593 specifically require Federal agencies to thoroughly review effects on cultural resources before any approval of expenditures on the project under consideration and before decisions are made to foreclose alternatives to the project that could avoid adverse effects altogether. Despite these requirements and the limited nature of surveys completed, the NPS fails to identify the need for additional surveys, simply noting in the EA that known sites must be evaluated for their National Register significance prior to approval of the project." (214)

"Add after the third sentence of the first paragraph on page 39: Multiple-use management in the Henry Mountain Planning Unit is directed by the Henry Mountain Management Framework Plan. This plan was completed and decisions made in 1982. The proposal is in conformance with decisions and objectives of the plan." (196)

"Add the following statement as the second paragraph on page 49: Three developed campgrounds with a combined capacity of 168 persons at one time (PAOT) are located within the Henry Mountain area. However, the closest of these, Starr Springs Campground, with 63 PAOT capacity, is located at least 20 miles from the proposed road." (196)

". . . the Federal Land Policy Management Act of 1976 states that areas undergoing wilderness review (i.e., Steep Creek WSA and North Escalante Canyon/The Gulch ISA) will be managed as wilderness by the Secretary of Interior during the interim so as not to impair the suitability of such areas for preservation as wilderness. (p. 6, EA). This policy is Congressionally mandated and is to be adhered to until determined otherwise. How will a massive road paving project impact these areas? This was not covered in the EA and clearly should be before any additional steps are taken." (251)

"Since the Interior Board of Land Appeals (IBLA) ruled on April 12, 1985, that portions of the appealed Mt. Pennell roadless areas must be considered part of the wilderness study area (WSA), add the following to the discussion of recreation and wilderness values:"

Mt. Pennell WSA

> "Mt. Pennell elevation (11,320 feet) is the second highest peak in the Henry Mountains. There are several deep canyons carved into the side of the mountain. Vegetation ranges from pinyon-juniper in lower elevations to aspen, ponderosa pine, spruce, and Douglas fir above 7,000 feet.
>
> "Most of the WSA is in a completely natural condition. Outstanding opportunities for both solitude and primitive, unconfined recreation exist throughout the WSA, except for a 1,500-acre parcel on Cave Flat. Steep slopes and deep canyons along with a variety of vegetation contribute to the outstanding opportunities for solitude. In addition, there are superb vistas of southern Utah from the Mt. Pennell summit. Outstanding recreational opportunities exist for hiking, photography, rock climbing, and geological sightseeing. The Horn , a prominent geologic feature on the north side of Mt. Pennell, offers some of the best technical rock climbing opportunities in the region.
>
> "There are known deposits of gold, copper, and silver which are currently subeconomical to develop due to their extent and quality. Approximately 8.2 million tons of strippable coal on 1,270 acres are found on Cave Flat. However, the entire acreage is considered unsuitable for stripping operations because of the presence of crucial-critical bison habitat." (196)

Population projections for Escalante and Boulder appear to be low. The numbers appear to be baseline numbers and do not account for growth generators, e.g. the Boulder to Bullfrog Road. In fact, Boulder and Escalante could become nodes for tourist services and facilities which would generate substantial growth beyond baseline figures." (50)

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Responses:

One other writer mentions the presence of elk near the Burr Trail. The information on antelope and wild horses adds information not previously made available to the preparers. With reference to the Anasazi site near Boulder - this material is correct and should have been included in the EA. Also correct is the reference to National Historic Preservation Act requirements. However, the reference to "known sites" is incorrect - the EA does not stipulate that only existing sites will be evaluated (see page 48 of the EA), and there is provision (see item C) for evaluation of at-yet-unknown sites. The material on the Henry Mountain Management Framework Plan and the Mt. Pennell WSA is appropriate for inclusion and reflects a recent decision on the status of the WSA. Legal questions relating to the roadway as it relates to WSA's are considered under Environmental Consequences. The comment on the population projections is misdirected; the section (page 43) referred to describes baseline projections only. The discussion under Environmental Consequences reflects inclusion of the "growth generator" (paving the road).

Environmental Consequences

In this section the likely impacts of the various alternatives are discussed.

Comments:

"It is acknowledged that damage to fragile soils will occur, and it is stated that reseeding will be done in mitigation. Reseeding a desert ecosystem is a more difficult process than is acknowledged in the EA. Watering is required over a period of years, and there can be no assurances of success. No analysis is done of the source of the water needed for reseeding, nor of the efforts required for the watering. Furthermore, no assessment is made of the impacts on water quality of the increased erosion, with or without successful reseeding, nor of the effects on downstream riparian lands." (195)

"The effects on the Desert Bighorn, well known for their aversion to man and his intrusions, are not even discussed in the EA. Clearly this is a most important issue, deserving of considerable effort. It makes little sense to reestablish the sheep, only to drive them away with construction and traffic." (206)

"Discussion of the impact of construction and increased vehicular traffic on fauna is inadequate. Bighorn sheep are very susceptible to stress and dust-born infectious diseases. An example of this was seen in the construction of the Four Mile Dam on the Platte River, where the impacts on the local sheep population were disastrous. The EA should contain a report from the Utah Division of Wildlife documenting the predicted impacts on wildlife." (195)

"Impacts to the falcon eyrie in Long Canyon are likely to be significant. In commenting on the Circle Cliffs Tar Sands Project, the U.S. Fish and Wildlife Service noted that 'human activities between February 1 and August 1 (in excess of those which have historically occurred at the sites) should be prohibited within one-half mile of the nesting cliffs.' The eyrie in Long Canyon is a quarter of a mile from the Burr Trail. The EA admits that the peregrine falcons would be adversely affected and might even be forced to abandon their nest (p. 46)." (84)

"While the EA admits that 'threatened and endangered species occur in the area,' and that 'the NPS and BLM reflect a management stance wherein all adverse impacts to these plant and animal species will be avoided' (EA, p.9), the NPS fails to complete studies necessary to evaluate potential adverse impacts to endangered species. Moreover, the EA ignores available information that strongly indicates that improving or paving the road is very likely to jeopardize peregrine falcons nesting in Long Canyon." (214)

"A biological opinion from the U.S. Fish and Wildlife Service to the Cedar City Office of the BLM concludes that the amount of traffic on the Burr Trail in Long Canyon resulting from the proposed development of tar sands in the Circle Cliffs Tar Sand Area would be likely to jeopardize the continued existence of the peregrine falcon species in Long Canyon. The opinion notes that tar sand development in the Circle Cliffs is expected to result in 140 truck trips per day under the proposed development alternative. Despite the fact that the NPS EA assumes an increase of traffic on the Burr Trail of 10 cars/day to 250 car/day by 1994 if the road is paved--a daily traffic count significantly higher that the number of trucks under the proposed tar sand development scenario--no mention is made in the EA of the jeopardy opinion and its obvious relevance. Furthermore, the BLM received the opinion in December 1984, at least 4 months prior to their review of the NPS EA. The jeopardy opinion and its relevance to the Burr Trail paving proposal should be explicitly explained in the EA, and a Section 7 consultation should be required. The jeopardy opinion clearly supports a determination that the proposed paving project may affect the peregrine falcon." (214)

"It should also be noted in the EA that the Fish and Wildlife Service recommended relocating the road in Long Canyon to a point greater than one-half mile from the peregrine falcon eyrie. The feasibility, cost and environmental impact of this recommendation should be, at a minimum, briefly discussed in the EA. From NPCA's knowledge of the region, relocation would be very difficult if not impossible, extremely costly and damaging to the environment." (214)

"AFFECTED ENVIRONMENT/ Endangered Species-the EA states the BLM and the NPS have initiated separate studies to determine if the proposed road paving is likely to affect any listed species ... If the determination is 'may effect' for any listed species, the agencies will request formal Section 7 consultation with the FWS. (p35). Under ENVIRONMENTAL CONSEQUENCES/Endangered Species the EA concludes the following, 'effects of road construction and increased traffic on this nest site (Long Canyon) are unknown, but are likely to be similar to those analyzed for the Circle Cliffs Tar Sands EIS. . . . It is possible that . . . increased traffic . . . could adversely affect this eyrie during a portion of the year. . . . the probability of disturbance is likely to increase as traffic increases (p46). Then the EA cavalierly decrees until such time as the Section 7 consultation process is completed . . . no . . . potentially adverse actions will be implemented. . . . agencies will carefully monitor the work to ensure continued compliance with the Endangered Species Act. MONITOR THE WORK? What happened to Section 7 consultation? Does the EA clearly mean there will be no ESA consultation until after a road project has begun? Why is there absolutely no citation and analysis of the existing Fish and Wildlife Service's biological consultation referred to above? That opinion finding 'adverse affect and jeopardy' is clearly relevant to this assessment, is it not? (249)

"Because the volume of traffic would increase as would the speed of travel, signing to reduce road kills, i.e. rabbits and reptiles, would have no effect. This is not a mitigating measure." (144)

"The matter of air quality was . . . a part of the . . . written assessment . . . fugitive dust on the current road, I feel is more harmful to the Class I standard than could be shown in the emissions of the projected 200 vehicles daily." (137)

". . . the (DEA) doesn't speak very honestly or directly about visual impact . . . Park resources degenerate when human use increases and cannot be controlled." (80)

"Under General Issues the EA states, The remote, rather primitive nature of the existing . . . road and adjacent lands has caused some concern about impacts on wilderness values! A clear understanding is needed of the relationship that a paved road would have to 'wilderness'", then under Affected Environment (p41) "Impacts of paving the road on recreation use patterns will be considered." (Emphasis added). and then under Environmental Consequences (p50) The relationship of proposed wilderness areas ... to eventual paving has been discussed. (Emphasis added). Precisely where did the 'consideration' and 'discussion' of that clear understanding of the relationship occur? Is there any analysis of present wilderness and other recreational use, of changes in use, or of the relationship and affect that road paving would have on wilderness or its use anywhere in the EA? Why does the EA highlight the need for a clear understanding of the road/wilderness relationship and then nowhere provide any assessment whatsoever of that relationship?" (249)

". . . the EA devotes far too little attention to the values of wilderness in this area. The most attractive aspect of this whole area is its remoteness. There are very few areas left in the continental United States where one can experience remoteness on as grand a scale as one can in this part of Southern Utah. There needs to be a much fuller discussion of the impact of this project on the recreational values of those who use the area. There also needs to be a study of the estimated increase in recreational use the surrounding land will receive." (195)

"The extent of the EA's assessment of environmental consequences to recreational and wilderness values is to say that paving could lead to the construction of additional recreational support facilities adjacent to the road. (EA, p.50) No assessment is provided regarding how paving could affect the 'remote, primitive nature of the area,' the feeling of solitude and isolation, the potential of increased congestion and how it might affect visitors seeking solitude, or recreational use patterns." (214)

". . . the EA fails to address the potential conflict between paving the road and protecting the wilderness values of the North Escalante Canyon/the Gulch ISA and the Steep Creek WSA according to BLM's Interim Management Policy. It is NPCA's understanding that BLM's records show the boundary of these WSA's extending to the edge of the Burr Trail. The improvement or paving projects described under Alternatives IA, IB and II all include significant road work, widening of the road base and some realignment for the Burr Trail where it lies adjacent to or between these WSAs. This road work represents a potentially significant violation of BLM's Interim Management Policy. This problem however is not discussed in the EA. The EA's statement that 'both the North Escalante/the Gulch ISA and the Steep Creek WSA have boundaries near the edge of the Boulder to Bullfrog Road' (EA, p.6, emphasis added) is unacceptable. As noted, it is NPCA's understanding that the boundaries go to the edge of the road. The EA needs to directly address the potential conflict between road improvement and compliance with BLM's Interim Management Policy. The EA also needs to include a map showing the location of the WSAs." (196)

". . . the EA states oddly that these WSA's have boundaries near the edge of the Boulder-to-Bullfrog roadway. Where precisely is near the edge? Are these more vague statements and obfuscations . . . or did the EA mean to state correctly 'on the physical edge' of the roadway? There is no documentation to my knowledge of any exception here to the standard wilderness inventory policy and guidelines, nor is there any BLM record to my knowledge to indicate that the boundaries are anywhere but where they are supposed to be, not in some undetermined zone near the edge, but on the edge of the existing road." (249)

". . . the roadless lands under IMP protection do indeed come to the edge of the existing road; expansion of this particular roadway into lands under the IMP is not regulated as either a valid existing right or a grandfathered use, and therefore must meet all nonimpairment standards; there should be no question that those standards would be exceeded if the proposed action were to occur. Only an act of Congress can remove the nonimpairment standard by legally deleting the area under question for further wilderness review. The EA is both incorrect and negligently inadequate regarding this issue. The significance of these errors requires a full discussion and analysis in an EIS." (249)

"Add the following as the fourth paragraph (on page 50) 'Until such time as Congress acts on wilderness designation, the BLM is obligated to manage WSAs under what is called 'Interim Management Policy (IMP).' Under IMP, a maintenance-and-use border, or any other type of buffer, is not optional. Therefore, any deviation from the existing route, or widening of the roadbed, would constitute violation of IMP. However, it is concluded that should the project be consummated as proposed, then upon termination and after needed reclamation is complete, the area's wilderness values would not be impacted so as to constrain the Secretary's recommendation as to the area's suitability or nonsuitability for wilderness preservation." (196)

"Add the following to Mitigation Measures: Since the wilderness values of the three WSAs involved would not be impacted in such a way that the Secretary's options for recommendation as wilderness would not be affected, an exception to the nonimpairment standard in IMP could be invoked by BLM." (196)

"The proposed stream channelization of Long Canyon is non-mitigatable." (191)

"The four mitigative measures written into the draft apply during road construction only. We suggest you add (to page 48) the following after the second paragraph. The steps that are needed in the mitigation procedure: (1) intensive survey; (2) identification of those sites that are National Register quality; (3) avoidance of significant sites where possible; (4) development of a research design and excavation plant that would retrieve the information needed from those sites that could not be avoided; (5) actual testing and excavation of the sites; and (6) construction of the road with the following stipulations." (196)

"Add the following as mitigatory: 'Development of some type of visitor education program, such as pamphlets, brochures, etc., that would help inform visitors about cultural resources and reduce the indirect impacts to all sites.'" (196)

"As briefly discussed in the EA (p. 49), there is considerable potential for additional impacts if the road is paved: tar sands development and hauling; utility corridor through the Park; pressures to pave other roads such as the Notom road, and possibly even resurrection of the trans-Escalante highway. In addition, commercial leasing of state school sections may occur for a variety of environmentally damaging projects. While these issues are raised, no serious investigation of their consequences is to be found in the EA." (206)

"While the EA admits that paving the Burr Trail may encourage mineral extraction (e.g.: tar sand development in the Circle Cliffs, coal mining in the Henry Mountains, or oil and gas, uranium and CO_2 development in the general area); increase pressures to improve backcountry roads feeding the Burr Trail; encourage use of the roadway as a utility corridor; and encourage the commercial leasing of Utah state sections near the road (EA, p.49), the EA includes no assessment of the impacts from these development on the road or the region." (214)

"The (DEA) does not fully consider the impact of losing one of the longest scenic unpaved roads in Utah." (161)

"To the extent that paving the Boulder to Bullfrog Road serves to bring new visitors into this area, it can only enhance the local, State and national appreciation of the area and build a stronger constituency for protection of the park and wild lands affected. More simply, if the efforts to build a viable tourism economy succeed, there will be less pressure for alternative, and perhaps more damaging, developments." (239)

"The (DEA) doesn't adequately address the long-term and cumulative effects of paving the Burr Trail." (148)

"The (DEA) errs in concluding that the long-term environmental impact would be minimal. Paving this road would forever destroy its wild and primitive character. (94)

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Responses:

Specific comments on the preceding quotations follow in the order they were presented.

It is correct that the EA lacks an analysis of reseeding procedures and water sources. Revegetation has been successfully accomplished by the BLM along the eastern portion of the Burr Trail. Page 44 discusses impacts on water and riparian habitat.

There is admittedly little information available on the recently introduced Bighorn Sheep population. The suggestion that the Utah Division of Wildlife provide an analysis of impacts relating to the Boulder-to-Bullfrog road is appropriate; they were contacted by telephone. The population has apparently been quite mobile. It is being monitored by a university researcher, and quarterly reports will be prepared. The State biologists comments were to the effect that a paved road in itself will likely have little effect on the sheep, but increased numbers of people using the road could cause the sheep to disperse to other portions of the Waterpocket Fold area.

The comments regarding the requirements of the Endangered Species Act are correct. However, it should be pointed out that the preliminary analysis of impacts to peregrine falcon habitat in Long Canyon is more recent than the December 7, 1884 opinion relating to the Circle Cliffs Tar Sands proposal. The Tar Sands opinion was recently (April 12, 1985) amended by a memorandum from USFWS to BLM; after consultation with the BLM, alternative routes bypassing the Long Canyon route were recommended as "reasonable and prudent alternatives," but await determination on the status of the proposed wilderness areas. This is useful information, but the Section 7 process relating to the proposal to pave the road from Boulder to Bullfrog is a separate action requiring separate determination of potential jeopardy to peregrine falcon habitat in Long Canyon and elsewhere along the route. The EA (p46) states that "Until such time as the Section 7 consultation process is completed, no construction work or other potentially adverse actions will be implemented on the Boulder-to-Bullfrog road." The preparers cannot understand how this can be construed to mean anything else but complete compliance by NPS and BLM with the Endangered Species Act. Monitoring would continue after full compliance with Section 7 provisions is achieved, for any of the alternatives except IV, along the entire route, for any Threatened or Endangered species, after each T&E species has been considered in the process outlined by Section 7 of the Interagency Cooperation Regulations (50 CFR 402) and the Endangered Species Act (16 USC 1531 et seq.).

Signing as a means of reducing road kills has been employed elsewhere for years. Any positive effects of such signing would make it worthwhile.

Existing levels of fugitive dust as a negative impact were frequently commented upon. Although it is a recognized pollutant, it was not felt that the levels were such as to constitute a threat to air quality in the region. As explained in the EA (page 36), there is little data available on the levels of particulate matter there.

Visual impacts of the roads and bridges was briefly considered (e.g., page 50). Specific engineering design criteria have not been established; agencies should work closely with design engineers (if any of the alternatives except IV are selected) to insure that appropriate mitigation measures are employed.

Regarding wilderness values in general, the preparers of the EA felt that it would be misleading to quantify effects on the "feeling of solitude and isolation" or even to make definitive statements on the impacts of additional wilderness use due to road improvements. The data isn't available, and comments frequently centered around one group's perception of another (e.g., ORV users vs. backpackers). Had time been available, a field study of at least a year's duration could have been employed to analyze impacts on wilderness values and resources near some other newly improved roads. Such a study; however, would not necessarily be accurately extrapolated for the Burr Trail situation.

The Interim Management Policy (IMP) is in effect on all BLM Wilderness Study Areas (WSA's) until such time that Congress makes a decision to designate the area as wilderness or not. Under IMP, no new action would be permitted which would impair the suitability of a WSA for possible wilderness designation, except for those covered by prior existing rights. The county does have a right to maintain the road. The extent of realignment which could be allowed is not well-defined, although it is clear that some maintenance work can be allowed without violating IMP. Should it so choose, as part of an appropriation bill, Congress could resolve this matter with language exempting this project from IMP.

The comment that stream channelization in Long Canyon cannot be mitigated is incorrect. Any construction in Long Canyon will result in unavoidable impacts. Nevertheless, special precautions can be taken that minimize these impacts to some degree.

The mitigation measures quoted for cultural resources are appropriate and require no further discussion.

The EA's mention of potential commercial use of a paved road is meant as an indication that such uses could occur. Since any such activities would require separate NEPA compliance, it is inappropriate to assess possible impacts in this EA.

The final two comments quoted above represent typical opposing views on the consequences of paving the road. There were many such comments; several were persuasive, even eloquent. They do not, however, allow for precise analysis. The preparers of the EA were unable to quantify the impact ". . . of losing one of the longest scenic unpaved roads in Utah." Neither were they able to affirm that by bringing in more visitors ". . . it can only enhance the . . . appreciation of the area and build a stronger constituency for protection of the park and wild lands affected."

The comments that follow related to the Socioeconomic portion of the EA. Although a part of the Environmental Consequences section of this Supplement, this portion is separated because the socioeconomic study prepared by the Utah Office of State Planning and Budget resulted in the most controversial aspect of the EA.

Comments:

"Garfield County and the Five County Association of Governments are not hoping for an increase in tourism, we are expecting it.

The hyphenated work 'hoped-for' (on page 49) should be changed to 'expected'." (50)

There is no reason to slight Wayne County's economy to benefit Garfield County. The recent pavement of the Boulder Mountain Road seems sufficient to promote tourism in the area. (268)

"I don't agree entirely with the socioeconomic part of the assessment that indicates little economic benefit to Garfield County after the construction phase." (44)

". . . the EA fails to address the negative impact of diverting tourists" (from Wayne County). (161)

". . . takes strong exception to the statement on page 53 of the (DEA) that 'there would be a redistribution of jobs from Wayne County' and 'there would be no net change in spending in the regional economy.' . . . the more opportunities there are for travel ... the more visitors are attracted . . . resulting in more revenue generated." (61)

"The statement on page 53 '. . . that additional impact would be a redistribution of current jobs from Wayne County' is not supportable. Additional traffic flow over and above that going to Lake Powell is expected to flow through the region since the Boulder-Grover Road and the Boulder-Bullfrog Road will make Boulder Mountain and the Burr Trail more accessible to the traveling tourist. Additional flow can only increase revenues for Wayne County. The statement '. . . there would be no net change in spending in the regional economy' is not supportable. Tourists who have not seen this part of the Grand Circle will now visit the region because of its accessibility. More time will be spent by the visitor and as a result more revenue will be generated in the regional economy. To assume that there will be no net change in spending in the regional economy is simply false. Were these conclusions based upon a socioeconomic analysis by the State of Utah or is this an assessment made by the Park Service? A reference citing these conclusions should be stated." (50)

"The environmental assessment does not adequately analyze potential negative economic impacts to communities such as Torrey and Hanksville, which would find themselves bypassed if tourists are diverted onto a paved Burr Trail. Only one short paragraph even mentions negative impacts in Wayne County." (84)

"It is stated that there would be no net change in visitor spending in the regional economy, but business in Wayne county couldn't help but suffer. No mitigations offered." (144)

"On page 8 (of the socioeconomic study) we learn about the economic benefits the road will offer Garfield County. This paragraph should be totally eliminated since it is very misleading to the casual reader! How can it be stated that the road 'will play a substantial role in providing new employment . . . ?' The table on page 14 shows that, after a brief year of construction, there will be a total of 9 new jobs by the year 2000. Nine jobs are enough to save Garfield County?! The proposed paving takes visitors away from the area's towns and to a privately-owned marina (whose rich owner stands to get richer at everyone's expense)." (198)

"The EA and the state report ignore the certain impacts on Wayne County except to say that there would be a 'redistribution of jobs' between the counties in the area. It sounds as if many so-called 'new' jobs in Garfield and Kane Counties are actually jobs lost in Wayne County. The EA completely ignores the certain economic decline that would occur in Wayne County (Hanksville, Torrey, etc.) if the Burr Trail were paved and became the busy road envisioned. A study based on sound estimates and real research including the entire region would be revealing and must be carried out." (204)

"While the EA addresses the socioeconomic consequences on Garfield and Kane Counties (albeit superficially), it ignores these same consequences for Wayne County, except to note (p. 53) that a redistribution of current jobs (and income) from Wayne County to Garfield and Kane Counties will occur. If e.g., 166 average annual daily traffic assumed by the Creamer and Noble report to be diverted from the Hanksville to Bullfrog road each spent $68.59 per round trip, this amounts to $2,077,934 in 1994, some fraction of which will now be spend in Garfield rather than Wayne County. An objective EA would surely have considered these effects on Wayne County, which in fact, are quite likely to be negative. It would appear the EA is only interested in those results which support paving of the road." (206)

"As some citizens have pointed out, paving the Burr Trail could actually divert traffic from the Boulder Mountain Highway and Utah highway 24, creating a loss of tourism revenues to the communities of Loa, Bicknel, Torrey and Hanksville. The EA admits that 'spending patterns could change,' and that 'additional impacts would be a redistribution of current jobs from Wayne County.' (EA,p.53) However, the EA skirts the issue, addressing economic impacts in terms of a net change, rather than addressing directly the sensitive and critical issue of potential tourism dollar losses to Wayne County. The EA should openly and directly and fully discuss which communities will benefit from Burr Trail paving and which may lose." (214)

"There is very little discussion in the EA of the negative impacts of diverting tourists from Torrey, Loa, Bicknell, and Hanksville, which lie along existing travel routes. Perhaps more travelers would stop in Boulder and Escalante if those towns had services that tourists need." (232)

". . . include an analysis of tourist circulation patterns as potentially affected by paving of the Boulder-Bullfrog road. Would paving of that road result in the likelihood of a net increase in regional tourism, or merely provide an additional travel route for those people who would come to the area anyway? This is a matter of crucial concern. I am certain that any estimate of increase would be vague conjecture. Should 30 or 40 million dollars of tax funds be expended on the basis of such conjecture?" (77)

"What has been the economic effect of the paving of State 24 between Torrey and Hanksville, a distance of 50 miles? (This highway is most comparable to the Boulder-Bullfrog proposal.) I believe an objective study would show that such paving has been a very mixed economic blessing. To my knowledge, most tourist-related businesses in Torrey, Caineville, and west Hanksville are not profitable, except (possibly) during the prime four-month tourist season. During the remaining eight months they undergo a severe economic recession, and in fact a number of businesses in this area have recently closed or barely survive." (77)

". . . the probability that Escalante and Boulder would reap almost the same economic benefits whether or not the Boulder-Bullfrog road is paved, unless paving results in a regional increase in total travel (questionable at this time). See page 53. That is, the Boulder to Torrey road, now under completion, would provide the same type of tourist link between Escalante and Bullfrog Resort at the expense of 90 miles of additional travel through terrain that is just as scenic, if no more so." (77)

"For clarification, I would suggest and prefer that the last paragraph on page 53 be replaced with the following paragraph: 'It should be noted that all impacts derived thus far in the analysis result from new tourist traffic generated by the Boulder-to-Bullfrog Road. No accounting has been made of any change of economic activity resulting from redistributed traffic. If tourists change their route of travel, their spending patterns may change accordingly. However, this redistribution is not likely to change economic activity significantly and, moreover, there would be no loss in spending in the regional economy resulting from any redistribution of traffic. Rather, as shown on page 52, the construction and use of the Boulder-to-Bullfrog Road creates significant increases in economic activity in the regional economy.'" (247)

"The case for attracting new tourists by paving the road is based on the report by Creamer and Noble (C&N) and the Five County Association of Governments, May 1984. This report assumes traffic on the road will increase as a result of paving from the annual average daily traffic (AADT) of 10 in 1983 to 250 in 1994. Of the 250, 166 are assumed to be diverted from the Hanksville to Bullfrog road, making an increase of 74 'new' AADT by 1994. A calculation, assuming 13.4 AADT in [illegible]39 without paving (6% a year), and completion of paving by the beginning of 1989, shows this to be an annual increase of 35.8% each year for six years, a remarkable and possibly a unique figure for any road. Using the C&N figure of $68.59 as an average amount spent by tourists for a round trip on the road, it is easily calculated it will take 15.8 years, with each year AADT increasing by 35.8%, for new tourists to spend the $20.8 million the C&N report estimates for the paving cost. Using the much more realistic figure of $37 million of the U.S. Dept. of Transportation, it will require 17.6 years. To point up the absurdity of these assumptions, if the AADT increased at the required 35.8%, the AADT on the road at the end of 15.8 years = 1,686 and for 17.6 years = 2925, a bumper-to-bumper situation! At a more realistic annual increase of 6%, it would require 82.7 years for new tourists to spend $20.8 million, far beyond the lifetime of the paving project. The purpose in making these calculations is to show the consequences of the C&N assumptions, and to point out the obvious conclusion that paving the road can in no way, even using these highly questionable assumptions, be justified on economic grounds. Paving the road can only be viewed as a make-work project, with the major economic benefit arising from construction costs, much of which will be paid for by State and Federal taxes. The figure of $5 million a year added to the income of the area used in the C&N report is only for the major construction year of 1988. In 1994, the increased income, using the above C&N figures for new tourists, is only $926,173, and only a fraction of that will be returned to the taxpayers (as taxes) who are asked to pay the paving bill." (206)

"The accuracy of every estimate of the social and economic impacts depends on the integrity and accuracy of the Creamer & Noble report. The figures in the report were not even questioned. This is extremely poor judgement. Creamer and Noble were contracted by proponents of paving to produce a document glowingly in favor of the project. Creamer & Noble also have a financial interest in paving, as they have a very good change of getting the contract should it be offered. Yet their figures are treated as unbiased and accurate estimates. The calculations in their Preliminary Engineering Report, Boulder - Bullfrog Scenic Road, are not documented anywhere by an appropriate model, previous studies, etc. and should be considered propaganda, wishful thinking and fiction until proven otherwise by an independent objective study." (204)

"The socioeconomic analysis adopts Creamer and Noble's traffic increase projections without any objective analysis to substantiate these projections. Creamer and Noble has been a major advocate of paving the Burr Trail and their Preliminary Engineering Report released last year was widely criticized as largely propaganda. Adopting traffic and other economic predictions from this report without an objective analysis is wholly unacceptable. The primary problem turns on the unacceptability of Creamer and Noble's prediction that--if the Burr Trail is paved--traffic will increase from an average daily traffic count of 10 cars/day to 250 cars/day by the year 1994. This prediction assumes a growth rate of 6 percent a year of traffic into the Bullfrog marina, a diversion of one quarter of that traffic onto the Burr Trail, and an additional unexplained increase of 74 cars/day simply because the Burr Trail is paved. (See p. 10 the of the Socioeconomic Analysis supplement.) Neither Creamer and Noble nor the NPS provide a factual analysis for the basis of adopting the predicted increase of 74 cars/day. In fact, no justification at all is provided for adopting this figure, except to say that traffic will increase beyond 6 percent a year because the Burr Trail is paved. Furthermore, there is no objective review of the reliability of the prediction that traffic will increase at 6 percent a year. While it may be true that the Utah Department of Transportation predicts that traffic on major Utah highways will increase at a rate of 6 percent a year, this growth rate clearly does not realistically apply to U-276 or the Burr Trail. NPCA's telephone inquiry to UDOT revealed that existing traffic counts for U-276 show that traffic has remained the same--or diminished--in the last 4 years. (The figures we received were for an average annual daily traffic count on &-276. The figures are: 1984-355, 1983-350, 1982-410, 1982-410). These figures suggests that the traffic increases due to paving are extremely overestimated. As a result, the broader tourism revenue increases are extremely overestimated." (214)

". . . under the 'No Action Alternative' a more extensive socioeconomic analysis should have been included, to indicate the adverse impacts of not paving the road." (194)

"The Circle Cliffs tar sand resource has the potential to be of significant economic importance to the local communities, Garfield County, the State of Utah and the United States. A significant decrease in revenue has been incurred as the result of a decline in oil production, [putting] a burden on governments who rely heavily on revenues from extractable minerals.

Development of Utah's tar sand resource would help alleviate some of this burden. Because of the remote location of the Circle Cliffs area, transportation of equipment into and produced hydrocarbons out of the area is a significant issue. Within the Plan of Operation submitted by Kirkwood, along with the application to convert the leases in the Circle Cliffs Special Tar Sand Area, it is stated that the portion of the Boulder-to-Bullfrog road from the western boundary of Capitol Reef National Park out to Boulder, Utah would be used for this transportation. Kirkwood has an informal agreement with the National Park Service and the Bureau of Land Management not to use the "Burr Trail" portion of the Boulder-to-Bullfrog road, through the park, for commercial transportation. If commercial transportation, on the proposed road, from the Park boundary to Boulder were to be prohibited or severely restricted it would be difficult to justify the investment and time necessary to do the exploration and research work on this potentially valuable resource. Thus we would encourage you to address the economic impacts, on the tar sand and other mineral development in the Circle Cliffs area, should an alternative calling for restricted commercial transportation be proposed in the Environmental Assessment." (194)

"It seems logical to assume that continuation of the status quo or taking No Action would create, or continue, significant impacts. Probably these would be adverse. It seems most logical that it is because of these significant adverse impacts that the project is being proposed in the first place. These impacts could be in the form of continuation of those already existing, opportunities foregone, or adverse impacts that may yet occur. Most likely, a good share of the impacts from the proposal would not be realized. Some of these would be:
"Loss of additional visitors to Garfield County."
"Maintain or increase of visitors to Wayne County."
"No net change in regional income."
"Retaining the difficult access into the Boulder-Bullfrog area. Using the figure of ten vehicles current use per day with an increase of 6 percent annually, our calculations show that it would take about 54 years for traffic to reach 250 vehicles per day with No Action."
"Loss of additional visitors to the wilderness area due to continued unimproved and difficult access." (196)

- - - - -

Responses:

The comments on the effects of paving on the communities in Garfield and Wayne Counties constitute a study in contrasts. The EA's brief mention of impact on Wayne County was viewed quite differently by proponents of paving and by those who oppose paving. This dichotomy occurred, for example, at the public meetings in southern Utah, where business persons from Torrey generally opposed paving, while those from other parts of Wayne County supported paving. Very strong opinions exist on this issue, and there is doubt that any economic impact analysis relating to southern Utah communities could avoid the problems of interpretation that exist with the present socioeconomic study. The preparers of the EA recognized this, and it was for that reason that an independent organization (in this case, the Utah Office of State Planning and Budget), was contracted to do the study. The preparers have nothing to add to the quoted comments; they speak well of the particular points-of-view they promote.

A comment relates to projected adverse economic impacts should be No Action alternative be implemented. Each of the points raised has been commented on earlier, with no obvious conclusions. The views of a company interested in using a portion of the road for hauling is included and is self-explanatory.

There are some comments on the assumptions that formed the basis of the socioeconomic study. They center around the acceptance by the contractor of figures presented by the Creamer and Noble report. That organization has been a proponent of paving, admittedly, and the study's data must be viewed in that light. However, the contractor had a very short preparation time available, and used the available data. An economic impact model, widely accepted in Utah, formed the basis for the study.

While advocates of particular socioeconomic scenarios will be adamant in their opposition to any others, it may be said that there are undoubted economic benefits, both long and short term, that may be derived by communities that receive increased numbers of visitors because of improved road conditions.

44	-Laurie Holley, Mayor, Cannonville, Utah
50	-John Williams, Five County Association of Governments, St. George, Utah
61	-Dell LeFevre, Garfield County Commission, Panguitch, Utah
77	-Ward Roylance, Torrey, Utah
80	-Valerie Cohen, Cedar City, Utah
84	-Gary MacFarlane, Utah Wilderness Association, Salt Lake City, Utah
94	-Carleton DeTar, Salt Lake City, Utah
137	-Rick Lutes, Cannonville, Utah
144	-A.J. Ferguson, Torrey, Utah
148	-Martie Crone, Casper, Wyoming
160	-Alan Carpenter, Logan, Utah
161	-Richard Warnick, Logan, Utah
182	-James Malusa, Tucson, Arizona
191	-Doug Monger, Miles City, Montana
194	-Robert Montgomery, Kirkwood Oil & Gas, Casper, Wyoming
195	-Zachary Stoumbaugh and James Harrison, Boulder, Colorado
196	-Don Pendleton, BLM, Richfield, Utah
198	-Audrey and Tim Graham, Moab, Utah
204	-Scott Smith, Logan, Utah
206	-Jack Spence, The Sierra Club, Logan, Utah
214	-Terri Martin, National Parks and Conservation Association, Salt Lake City, Utah
218	-R.J. Younger, Salt Lake City, Utah
230	-James Catlin, Salt Lake City, Utah
232	-Ruth Frear, The Sierra Club, Salt Lake City, Utah
239	-Scott Matheson, Salt Lake City, Utah

247	-Brad Barber, State Office of Planning and Budget, Salt Lake City, Utah
249	-Clive Kincaid, Southern Utah Wilderness Alliance, Escalante, Utah
251	-Marianna Young, Salt Lake City, Utah
262	-Norman Bangerter, Governor, Salt Lake City, Utah
268	-Ed Grumbine, Sierra Institute, Santa Cruz, California
270	-Gordon Lind, Sandy, Utah

FINDING OF NO SIGNIFICANT IMPACT CONCERNING THE BOULDER-TO-BULLFROG ROAD (BURR TRAIL), UTAH

The Conference Committee Report of October 10, 1984, (Congressional Record, page H 11922) required the National Park Service "to provide adequate information respecting environmental concerns. . .to conduct an Environmental Assessment. . .", hold public meetings, and to "transmit such an assessment, together with its recommendation" concerning the proposal to pave the roadway known as the "Burr Trail" and upgrade it into an all-weather scenic highway linking the communities of Boulder and Bullfrog, Utah. The road traverses about 50 miles of lands administered by the Bureau of Land Management and about 16 miles of lands within Capitol Reef National Park and Glen Canyon National Recreation Area. Within this total length are also some three miles on State lands.

As requested by the Committee, the Regional Director of the National Park Service, in close cooperation with the State Director of the Bureau of Land Management prepared an environmental assessment on the proposal to pave the road. The environmental assessment was not prepared as a Federal initiative but rather was based on the proposal put forth by the Utah Five County Association of Governments. The assessment summarizes the issues and alternatives concerning the proposal as well as the results of the public review which took place. The alternatives considered include (I) Pave the entire route, (II) Gravel the entire route for an all-weather road, (III) Limited improvement, and (IV) No action. The assessment discusses the environmental consequences in a manner which reflects the availability of information to meet the submittal date of July 1, 1985, requested by the Committee.

The environmental assessment takes a broad approach due to the limited timeframe involved in preparation. For example, sources of borrow material for road construction and their environmental impacts are generally described, but there have been no detailed studies of such sites. The design for bridge sizes is disputed by variables in flood flow estimates. A sampling of archeological sites was undertaken; there has been no complete archeological survey of the entire length of the road. A similar survey situation exists for threatened and endangered species, particularly plants.

During a 30-day public review period, over 270 letters were received commenting on the assessment. Over 600 persons, including the Governor and members of the

Congressional Delegation attended public meetings which were held in southern Utah. In addition, citizen groups held a hearing in Salt Lake City on the proposal and the environmental assessment. The Salt Lake Tribune reported that "some 150 people" attended that meeting. A transcript of the Salt Lake City hearing was transmitted to the National Park Service to be entered as a part of the public review record. The National Park Service response to these comments is available.

The proponents of paving the road state that they expect a paved road to increase tourism in the county with concomitant increased tourist spending, greater local employment and economic growth. Opponents of paving the road question projected economic benefits, point to possible environmental degradation, and perceive a loss of aesthetic experience.

Following the public review, the Director of the National Park Service examined the proposal and determined that the recommendation to the Committee should be for a version of the limited improvement alternative. This recommendation was specified in a letter to the Governor of Utah and the Utah Congressional Delegation on November 6, 1985.

This recommendation contains aspects of Alternatives I, II and III. It proposes that the entire length of the trail become a rural scenic road maintained by and under the jurisdiction of the National Park Service. The road would adhere to the present horizontal and vertical alignment and cross section but would be improved to an all-weather gravel surface.

The most critical portions of the road would be paved to maintain public safety and prevent further erosion. These portions include switchback sections along the road corridor. The 6,000 foot-long section in the creek bed on the east side of Capitol Reef National Park would be rerouted to the adjacent bench so that it becomes all-weather. A bridge would be constructed over Bullfrog Creek and other crossings would be hardened to permit travel during and after high water periods. The National Park Service would recommend construction of an interpretive center in Boulder. Construction of the center should encourage further complementary development there.

Garfield County would transfer its interest in the road to the National Park Service, which in turn would negotiate any necessary agreements with the

Bureau of Land Management. The National Park Service would be responsible for appropriate environmental compliance.

It is recognized that the environmental assessment, in its broad approach, requires more detailed investigations to satisfy identified concerns. It is expected that such concerns will be addressed in the more specific plans and clearances that will be required prior to and during construction. Examples of such plans and clearances will include: a plan detailing the location and construction of borrow areas and haul roads servicing them, extraction of borrow, and reclamation of the borrow areas and service roads; the handling of water runoff problems in The Gulch and Long Canyon; the sensitive requirements of construction in Muley Twist Wash and the Burr Trail switchbacks; and the relocation of over a mile of the road along Hall's Creek in Capitol Reef National Park. Additional environmental clearances would need to be obtained before construction could proceed, such as appropriate site-specific archeological surveys, a biological opinion from the Fish and Wildlife Service, possible Section 404 permits, or other permits or licenses.

If the above-mentioned additional plans and clearances are undertaken and completed, any adverse environmental impacts that were identified would be mitigated as appropriate.

Therefore, it is determined that the rural scenic road recommendation for the Burr Trail as described above will not be a major Federal action that would have a significant impact on the human environment, and an environmental impact statement will not be prepared.

Approved: Lorraine Mintzmyer 12-9-85
Regional Director Date
Rocky Mountain Region
National Park Service

Approved: Roland Robison 12/9/85
State Director, Utah Date
Bureau of Land Management

UNITED STATES DEPARTMENT OF THE INTERIOR

RECOMMENDATIONS OF THE NATIONAL PARK SERVICE CONCERNING THE BOULDER-TO-BULLFROG ROAD, UTAH

INTRODUCTION

The following is the response of the National Park Service to the request in the Conference Committee Report of October 10, 1984 (Congressional Record, page H 11922) "to provide adequate information respecting environmental concerns . . . to conduct an Environmental Assessment . . .", hold public meetings, and to "transmit such an assessment, together with its recommendation" concerning the proposal to pave the roadway known as the "Burr Trail" and upgrade it into an all-weather scenic highway linking the communities of Boulder and Bullfrog, Utah. The road traverses about 50 miles of lands administered by the Bureau of Land Management and about 16 miles of lands within Capitol Reef National Park and Glen Canyon National Recreation Area. Within this total length are also some three miles on state lands.

ENVIRONMENTAL ASSESSMENT AND PUBLIC REVIEW

As requested by the Committee, the National Park Service in close cooperation and conjunction with the Bureau of Land Management prepared an environmental assessment on the proposal to pave the road. A copy of that assessment is attached. It summarizes the issues and alternatives concerning the proposal as well as the results of the public review which took place. The alternatives considered include (I) Pave the entire route, (II) Gravel the entire route for an all-weather road, (III) Limited improvement, and (IV) No action. The assessment discusses the environmental consequences in a manner which reflects the availability of information to meet the submittal date of July 1, 1985, requested by the Committee.

The environmental assessment was not prepared as a Federal initiative but rather was based on the proposal put forth by the Utah Five County Association of Governments. The proposal on whether the road should be paved is controversial as evidenced by the public review. During a 30-day review period, over 270 letters were received commenting on the assessment. Some of these letters commented on the adequacy of the assessment, but most expressed a preference for one of the alternatives. These written comments include six petitions for paving, signed by 785 persons. Over 600 persons attended public meetings which were held in southern Utah. The preponderance of those expressing views at these meetings favored paving the road, including the Governor and members of the Congressional Delegation. In addition, citizen groups held a hearing in Salt Lake City on the proposal and the environmental assessment. The Salt Lake Tribune reported that "some 150 people" attended that meeting, where the large majority of those expressing views were opposed to paving the road. At the Salt Lake City meeting, there was more discussion as to the adequacy of the environmental assessment, expressed concern on whether the cost of the road would be the best use of public funds, and calls for other ways to improve the socioeconomic conditions in southern Utah. A transcript of the Salt Lake City hearing was transmitted to the National Park Service to be entered as a part of the public review record.

All the written and verbal comments received, including the meetings in both southern Utah and Salt Lake City, were nearly equally divided on supporting or opposing paving the road, plus a separate group identified as specifically favoring limited improvement of the road. Approximately 41% of the comments support paving the Boulder-to-Bullfrog road, with most of these favoring the proposal as put forth by the Five County Association of Governments. About 45% of all the comments were opposed to paving the road. Some 14% of the comments favored limited improvement of the road. Many of those against paving also commented that they would not object to limited improvement, however. The proponents of paving the road state that they expect a paved road to increase tourism in the county with concomitant increased tourist spending, greater local employment and economic growth. Opponents of paving the road question whether there will be enough economic benefit to warrant a great expenditure of public funds on the road, as well as perceived loss of aesthetic experience from traveling an unimproved rural road and degradation of National Park System lands. The opponents of paving also advocate that an environmental impact statement is necessary, rather than an environmental assessment.

EVALUATION

As indicated above, the environmental assessment takes a rather broad approach to some aspects due to the limited timeframe involved in its preparation. For example, sources of borrow material for road construction and their environmental impacts are generally described, but there have been no detailed studies of such sites. The design for bridge sizes is disputed by variables in flood flow estimates. A sampling of archeological sites was undertaken; there has been no complete archeological survey of the entire length of the road. A similar survey situation exists for threatened and endangered species, particularly plants. Other uncertainties exist; e.g., projected socioeconomic effects. Attached is a copy of the report Socioeconomic Impacts of the Proposed Boulder to Bullfrog Road Improvement prepared in 1985 by the Utah Office of State Planning and Budget. Projected traffic increases were based primarily on data supplied in the engineering report provided by the contractor for the Five County Association of Governments because other, independent data were not immediately available. Also, projected increased traffic on the road after paving was partially based on presumed additional visitor use facilities in Capitol Reef National Park, when funding for such facilities has not been programmed and is not assured. Similarly, such facilities are not programmed or assured for placement on the public lands.

There are other aspects of the proposal that merit consideration, such as quality control during design and construction, administration, maintenance, and cost. A multiplicity of Federal, state and local jurisdictions along the road with accompanying variations in policies and procedures requires assurance that the public interest is protected. Such protection could be achieved through competitive procedures for design and contracting, compliance with National Park Service and Bureau of Land Management design criteria and environmental mitigation, scheduling controls and quality controls, and similar potential problems. The question of long-term maintenance of the road remains unresolved. Presently, Garfield County maintains the dirt road on an unscheduled basis. Since the county now maintains very few miles of paved road, it could be assumed that the State of Utah would eventually be asked to take over maintenance of the road if it were paved. It seems reasonable that the State would want the road designed and constructed to a maintainable specification with an appropriate right-of-way. In the General Management Plan for Capitol Reef National Park, the National Park Service expressed its intention to retain a voice in the design of improved roads within the park and to regulate traffic upon them through the park. This intent of the National Park Service also pertains to the portion of the road within Glen Canyon National Recreation Area. The expressed intention of the Five County Association of Governments is for the road to be a scenic route, and the Association has stated that the road would not be designated as a hauling route. Nevertheless, there is at least one proposed commercial use of the road. Leaseholders proposing to extract bitumen from tar sand in the Circle Cliffs Special Tar Sand Area have proposed using the Boulder-to-Bullfrog road as a hauling route. Such commercial interests could contend that use of Utah tax monies to maintain the road entitles them to use the road for commercial purposes, so that the Five County Association of Governments' intent for a scenic road may not be assured.

Additional consideration should be given to the fact that neither the National Park Service nor the Bureau of Land Management is in a financial or manpower posture at present to maintain additional paved roads within their respective jurisdictions. Such additional burdens could only be accomplished by providing proportionate increases in operational and maintenance funds and positions. As mentioned above, visitor use facilities are not programmed. Accelerated funding for such facilities and positions to operate them and protect resources would need to be appropriated if the road were to receive traffic volumes predicted by the Five County Association of Governments.

Alternatives I and II provide for road widths and construction that substantially exceed the present "prescriptive right-of-way." The National Park Service and the Bureau of Land Management would contend that this prescriptive right-of-way may have been established by Garfield County by its past road maintenance actions and long, unchallenged tenure. However, the right extends only to that width (25 to 40 feet) that has been modified and maintained for travel purposes. Therefore, if the county or State were to retain the responsibility for the road under Alternatives I or II, a permit for construction would be required. The right-of-way should then be formalized reflecting the minimum necessary for construction and maintenance of the road. Such a width could extend to 150 feet or greater in some areas. This variable right-of-way would confine county or state operations to the road and maintain park and wilderness values outside the road.

Alternative III would permit the road alignment and generally road widths to remain as they are. It would be optional to provide a formal right-of-way or allow Garfield County to continue its road maintenance as in the past.

COSTS

The Five County Association of Governments estimates its proposal to pave the road, identified in the environmental assessment as Alternative I-a, to cost approximately $21.0 million, plus all gravel materials crushed and furnished to the project at no cost by Garfield County. For comparison purposes, the Federal Highway Administration was asked to prepare a preliminary cost estimate of the proposal. Its estimate of about $37.6 million, identified as Alternative I-b in the assessment, followed the same design parameters of Alternative I-a and deviated a minor amount in very critical locations to effect increased safety and protect scenic values. It should be pointed out that there are certain variables or unknowns in these estimates which may identify some aspects to be "shared cost" items. For example, Garfield County has stated that it plans to crush and supply some 451,000 cubic yards of gravel at no cost to the contractor. The county estimates the value of this gravel to be $1,353,000. This does not include hauling costs. The westernmost two miles of the route have been paved to a lower standard by Garfield County. The Federal Highway Administration's estimate believes that damage from road construction traffic would cause this section to need repaving. If responsibilities to repave are retained by others (Garfield County, for example) the cost estimate could be reduced by approximately $1.0 million. The State of Utah appropriated $600,000 toward design costs of the route; providing matching Federal construction funds would be appropriated. The Five County Association of Governments has authorized $1.6 million for construction of bridges along the route. Should Federal appropriations be contingent upon these and other share cost items, there becomes less discrepancy between the cost estimates.

The other alternatives in the environmental assessment were developed to provide a range of comparisons as required by the National Environmental Policy Act. Alternative II - Gravel Entire Route - is estimated to require more depth in select borrow and crushed aggregate base *if* it were designed to remain a permanent gravel road. It would also necessitate a wider sub-base. The National Park Service estimate for this alternative is approximately $31.7 million. If it were done as a phased project for future paving, ultimate costs would be greater. A second re-graveling plus paving is estimated to cost an additional $6.9 million.

Alternative III - Limited Improvement - would include a 6,000-foot realignment on the eastern edge of Capitol Reef National Park (this is included in all the alternatives except IV), a bridge across Bullfrog Creek and other stream crossing improvements, and placing drainage and gravel road base in strategic areas of poorly drained, clay soils. This would assure all-weather access over the entire route except during unusual periods of flash flood or deep snow. The National Park Service estimate for this alternative is about $7.2 million. Some cost reduction efforts could also take place with this alternative, such as the contribution of the Five County Association of Governments toward bridge construction.

Alternative IV - No Action - has no cost estimate, but would continue at the level of maintenance now expended by Garfield County.

RECOMMENDATIONS

Both the National Park Service and the Bureau of Land Management believe that some improvement to the road is needed, particularly in locations where the road becomes periodically impassable or where extraordinary maintenance often is required.

Neither agency would object to the concept of upgrading key locations and/or paving the road, provided that the following concerns are satisfied prior to construction: a plan detailing the location and construction of borrow areas and haul roads servicing them, extraction of borrow, and reclamation of the borrow areas and service roads; the handling of water runoff problems in The Gulch and Long Canyon; the proximity of wilderness study areas to the road; the sensitive requirements of construction in Muley Twist Wash and the Burr Trail switchbacks; and the relocation of over a mile of the road along Hall's Creek in Capitol Reef National Park. Additional environmental clearances would need to be obtained before construction could proceed, such as a complete archeological survey, a biological opinion from the Fish and Wildlife Service, possible Section 404 permits, or other permits or licenses.

The National Park Service and the Bureau of Land Management note that limited road improvements meet the needs of both agencies in administering the parks and public lands. Both agencies support the concept of a scenic road but the National Park Service recommends that commercial trucks be excluded from use of the roadway through National Park System lands. The National Park Service suggests that if Federal funds are used for road improvements or construction that the right-of-way for those segments within the boundaries of Capitol Reef National Park and Glen Canyon National Recreation Area be granted to the National Park Service and that funds be provided the National Park Service for those segments. The National Park Service believes Alternative III best suits its needs for resource protection and visitor service.

Should Federal appropriations be authorized for road improvement, the agencies recommend that the Federal Highway Administration or the Utah Department of Transportation have oversight responsibilities and that the Bureau of Land Management and the National Park Service have approval authority for design and mitigation measures, normally achieved through National Park Service permit or Bureau of Land Management right-of-way stipulations. Further, if the decision is to provide Federal funds for this project, its recommended that such Federal funding be appropriated from other than the regular operational or construction appropriations for the National Park Service or the Bureau of Land Management. Both agencies acknowledge that improvements in the road will increase travel through their respective jurisdictions. Additional funds will be required to provide minimal facilities, protect the cultural and natural resources and assure an adequate degree of safety for the visitors.

The Bureau of Land Management believes that the environmental assessment sufficiently addresses the key aspects of the environmental consequences associated with the improvement alternatives. The National Park Service believes that until those further environmental studies and clearances outlined above are completed, an environmental impact statement must remain a consideration.

APPENDIX II.—ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

DEPARTMENT OF THE ARMY
WASHINGTON, D.C. 20310

April 11, 1986

RECEIVED
APR 1 1986
WASHINGTON, D.C. 20510

Honorable James A. McClure
Chairman
Committee on Energy and Natural Resources
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

Reference is made to your request to the Secretary of the Army for the views of the Department of the Army on H.R. 3556, 99th Congress, engrossed enactment "To provide for the exchange of land for the Cape Henry Memorial site in Fort Story, Virginia." The Department of the Army has been assigned the responsibility for expressing the views of the Department of Defense on this bill.

The purpose of H.R. 3556 is to provide for the transfer of 0.23 acres of land by the Secretary of the Interior to the Secretary of the Army in exchange for a similar amount of land.

The Department of the Army, on behalf of the Department of Defense, has no objection to H.R. 3556.

The lands which are the subject of this bill are part of Fort Story Military Reservation, Virginia. The lands were acquired at the beginning of World War II for the expansion of the installation. The land proposed for conveyance to the Department of the Interior is currently used to accommodate the memorial at the Cape Henry Memorial Site. The memorial commemorates the placement of a cross at this site by the Jamestown settlers in 1607. The Department of the Interior has maintained a memorial in this area since 1939. In 1982, the memorial was moved to the current site from the site previously conveyed to Interior by the Army because of a shoreline erosion problem. H.R. 3556 would transfer administrative control of the current memorial site to the Department of the Interior.

The enactment of this bill will cause no apparent increase in the budgetary requirements of the Department of Defense.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Department of Defense.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the Committee.

Sincerely,

John W Shannon

John W. Shannon
Assistant Secretary of the Army
(Installations and Logistics)

State of Rhode Island and Providence Plantations
EXECUTIVE CHAMBER, PROVIDENCE

Edward D. DiPrete
Governor

April 9, 1986

The Honorable Malcolm Wallop
Chairman of the Committee on Energy
and National Resources
The Russell Senate Office Building
Room 206
Washington, DC 20510

Dear Senator Wallop:

Although I am unable to be with you today, I would like to express my strong support for the Blackstone Valley National Heritage Corridor and for the Rhode Island representatives, Mr. Robert Bendick and Dr. Patrick Malone.

There is not a better time than the celebration of Rhode Island's 350th anniversary to begin acknowledgement of the role of the Blackstone Valley and our state as the birthplace of the American industrial revolution. The historical and social significance of the Blackstone Valley has not received sufficient national recognition. The creation of the Heritage Corridor would preserve this history for the entire nation.

Due to the importance of this measure, as Governor, I am expressing my full support for the National Heritage Corridor legislation.

Sincerely,

Edward D. DiPrete

Edward D. DiPrete
Governor

The Rhode Island Historical Society
110 Benevolent Street
Providence, Rhode Island 02906
Telephone (401) 331-8575

April 4, 1986

The Hon. Malcolm Wallop
Committee on Energy and Natural Resources
Senate Russell Office Building, Room 206
Washington, DC 20510

Dear Senator Wallop:

There are few places in America, where so much of our country's history is packed into such a small space as the Blackstone River Valley. The effect of passing S.1374 creating a National Heritage Corridor would go far to recognizing the importance of this region.

Not only would the corridor include the birthplace of America's cotton textile industry, but the birthplace of the machine tool industry as well. More importantly, this corridor was where people came from all over the world to begin a life in America to seek jobs and raise a family. In the years between 1830 and 1930, people arrived from Ireland, British and French Canada, from Italy, Portugal, Poland, the Ukraine, Armenia, Syria, and Lebanon. This mixture of peoples brought with them their language, customs, and faiths. Somehow they made the transition to an American way of life while still retaining a rich heritage from their original culture.

The Blackstone Valley became a valley of homes as well as producer of goods. Its sons and daughters defended this country in World War I, World War II, Korea, and Vietnam. As an historian, I find it extremely rich and varied in historical materials. I strongly urge favorable consideration for the act to create a corridor. Not only was it New England's hardest working river valley, but it was an area that built community and citizenship in ways hardly equaled anywhere else.

Sincerely yours,

Albert T. Klyberg

Albert T. Klyberg
Director

kg

Collecting, preserving, and sharing Rhode Island history at three locations in the City of Providence (02906): John Brown House, 52 Power Street; Museum of Rhode Island History at Aldrich House, 110 Benevolent Street; and the Library, 121 Hope Street

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

HISTORICAL PRESERVATION COMMISSION
Old State House
150 Benefit Street
Providence, R.I. 02903
(401) 277-2678

April 4, 1986

The Honorable Malcolm Wallop
Committee on Energy and Natural Resources
Senate Russell Office Building, Rm. 206
Washington, DC 20510

Dear Senator Wallop:

I am writing as Chairman of the Rhode Island Historical Preservation Commission to urge your support of S 1374, the Blackstone River Valley Natural Heritage Corridor Act of 1986. This corridor, listed as the Blackstone Canal Historic District, has been listed in the National Register of Historic Places since 1971 in recognition of its early and continuing importance in the industrial development of the state.

The establishment of the Heritage Corridor ties in with the continuation of the Blackstone River Valley Corridor Heritage Park in Massachusetts. The whole area is of national importance as the birthplace of America's industrial revolution. Once one of the most heavily industrialized regions of the country, many of its significant buildings and the canal system remain, but the area is now facing high unemployment. Establishment of the corridor will aid in the development and capitalizing on the rich heritage of the whole area while providing stimulus for the industry that remains, and be a powerful aid to revitalization.

Yours truly,

Mrs. George E. Downing
Chairman

/db

Slater Mill Historic Site
Roosevelt Avenue, P. O. Box 727
Pawtucket, Rhode Island 02862

April 3, 1986

The Hon. Malcolm Wallop
Committee on Energy and Natural Resources
Senate Russell Office Building, Rm. 206
Washington, D. C. 20510

Dear Senator Wallop:

As an industrial historian and a Rhode Island resident, I have long had an interest in the Blackstone River Valley. I hope that you will support S. 1374, the Blackstone Valley National Heritage Corridor Act of 1986. I direct the Slater Mill Historic Site, which is the birthplace of the American industrial revolution. Our Site and many other historic structures in the Blackstone River Valley are irreplaceable parts of the industrial heritage of this nation. The Blackstone Canal runs through the valley, preserving an historic link between two states and reminding us of the great age of canal transportation.

The historic corridor through the Blackstone Valley was once one of the most successful industrial regions in America, but it has gone through a period of serious economic decline and is now experiencing high unemployment. The establishment of a national heritage corridor can be a catalyst for revitalization. It can help us retain historic sites and existing industry while stimulating new growth. I urge you to support this important and beneficial act.

Sincerely:

Patrick M. Malone

Dr. Patrick M. Malone
Director, Slater Mill Historic Site
Lecturer in American Civilization, Brown University

PRESERVATION SOCIETY OF PAWTUCKET

April 8, 1986

Senator Malcolm Wallop
Senate Committee on Energy and Natural Resources
Room 206, Dirkson Senate Office Building
Washington, DC 20510

Dear Senator Wallop:

The Preservation Society of Pawtucket wholeheartedly endorses the passage of the Blackstone River Valley National Heritage Corridor Act of 1986 (S 1374), which is presently being reviewed by your committee. Pawtucket has a rich industrial history which includes, of course, the Slater Mill, which was the "birthplace of the industrial revolution". This industrial development occured along the Blackstone River.

The Preservation Society has been working very hard to promote historic preservation in Pawtucket, and the establishment of the Blackstone River Valley as a National Heritage Park will do much to encourage the preservation of historical buildings along the River.

We would ask your support in the passage of this important piece of legislation, which will help our efforts in preserving Pawtucket's Industrial Heritage.

Sincerely,

Patricia S. Tillinghast

Patricia S. Tillinghast, President
Preservation Society of Pawtucket

PST/11

PO BOX 735 · PAWTUCKET · RHODE ISLAND · 02862

CITY OF PAWTUCKET
RHODE ISLAND

CITY HALL
PAWTUCKET - 02860
PHONE (401) 728-0500

OFFICE OF THE MAYOR

HENRY S. KINCH
MAYOR

BRUCE KEISER
Administrative Assistant

April 4, 1986

The Honorable Malcolm Wallop
Committee on Energy and Natural Resources
Senate Russell Office Building, Rm. 206
Washington, DC 20510

Dear Senator Wallop:

I am writing in support of S-1374, the Blackstone River Valley National Corridor Act of 1986. Located at the base of the Blackstone Valley, Pawtucket has served as a central focus in the evolution of industry in this region and, therefore, will play an integral part in the establishment of a National Heritage Corridor for the Blackstone Valley. Although time and changing economies have obscured much of our heritage, significant efforts and resources have already been devoted to uncovering and reclaiming parts of our social and architectural history.

Today, the Slater Mill Museum which stands on the banks of the Blackstone River serves as a cultural monument and historic site where tourists can learn about the origin and development of the Industrial Revolution in America. Recognizing the importance of this rich cultural asset, private citizens with the cooperation of local and state governments have formed the Slater Mill Association by which the original mill, built by Samuel Slater, has been rehabilitated for preservation as a historic landmark.

Building upon this significant cultural attraction, we are currently embarking on an ambitious economic development program to revitalize land uses along the Blackstone River which runs directly through our City center. Our Riverfront Development plan seeks to attract a combination of residential, office and retail development guided by a common theme and physically oriented to the Blackstone River. We also plan to expand cultural and recreational activities centered on the Slater Mill, including the construction of a walkway along the canal walls and arranging for tour boat rides on the river.

These local efforts are completely consistent with the overall Blackstone River Valley development proposals to promote the recreational, cultural, and economic potential of this historic corridor. In fact, the creation of a Blackstone Valley Linear Park would further focus public attention and attract greater private resources and investment to the riverfront in Pawtucket.

Malcom Wallop
April 4, 1986
Page 2

Despite our local enthusiasm and determination to make the Riverfront Project a reality, we are acutely aware of the dramatic boost that enactment of the Blackstone River Valley National Heritage Corridor Bill would lend to this endeavor. Therefore, I respectfully urge you and other members of the Energy and Natural Resources Committee to approve this highly important legislation in order to secure the historic preservation and promote the economic revitalization of a vital region in our Nation's heritage.

Sincerely yours,

Henry S. Kinch

Henry S. Kinch
Mayor

HSK/mal

bcc: Mr. Robert Bendick, Dept. of Environmental Mgmt.

Town of Lincoln
100 OLD RIVER ROAD
LINCOLN, RHODE ISLAND 02865

OFFICE OF THE TOWN ADMINISTRATOR
BURTON STALLWOOD

April 8, 1986

The Honorable Malcolm Wallop
Committee on Energy and National Resources
Senate Russell Office
Washington, DC 20510

Dear Senator Wallop:

The Town of Lincoln urges you to support S1374, The Blackstone River Valley National Heritage Corridor Act of 1986. Approximately four miles of the Blackstone River is located within the Town of Lincoln. This bill will provide funding for the revitalization of the area by the Rhode Island Department of Environmental Management. The development of the Blackstone Valley Linear Park is critical to the Town and the Blackstone Valley. Not only would it create recreational facilities along the River but would also provide an impetus for economic and historical rejuvenation to the Norther Rhode Island area.

Your support would be greatly appreciated.

Sincerely,

Burton Stallwood

Burton Stallwood
Town Administrator

BS/b

Town of North Smithfield
Memorial Town Building, Slatersville, Rhode Island 02876
401-767-2202

1871

The Office of The Administrator
Arthur Denomme

April 3, 1986

The Hon. Malcolm Wallop
Committee on Energy and Natural Resources
Senate Russell Office Building, Rm. 206
Washington, D. C. 20510

Ref: Blackstone River Valley National Heritage Corridor, R.I.

Dear Senator Wallop:

As Town Administrator, I am writing to urge support of S. 1374, the Blackstone River Valley National Heritage Corridor Act of 1986, not only for my own interest, but, for the numerous town residents and businesses abutting the proposed corridor portion in North Smithfield, R.I.

The corridor was once one of the most heavily industrialized regions in the country and was the birth place of the nations industrial revolution.

Establishment of the corridor will be a positive step in the right direction to retain present existing industry and commercial business and provide much needed recreational area(s) along its path.

Very truly yours,

Arthur Denomme
Arthur Denomme, Administrator

RECEIVED
APR [illegible] 1986
OFFICE
OF DIRECTOR

OFFICE OF THE MAYOR
FRANCIS R. STETKIEWICZ

April 8, 1986

The Honorable Malcolm Wallop
Committee on Energy and
Natural Resources
Senate Russell Office Building
Room 206
Washington, D. C. 20510

Dear Senator Wallop:

I am writing to urge support of S-1374, the Blackstone River Valley National Heritage Corridor Act of 1986.

The significance of this area as the birthplace of America's industrial revolution is of great importance to the country's history. The corridor was once one of the most heavily industrialized regions of the nation, but is now experiencing high rates of unemployment.

Establishment of the corridor will be a powerful stimulus to retain existing industry and provide for commercial revitalization.

Sincerely yours,

Francis R. Stetkiewicz

Francis R. Stetkiewicz
Mayor

FRS;hm

xc: Mr. Robert L. Bendick, Jr.
Director - DEM

RECEIVED
APR 1 [illegible]

TOWN HALL, CUMBERLAND, RHODE ISLAND 02864

**BLACKSTONE VALLEY
HISTORICAL SOCIETY**

April 6,1986

The Hon. Malcolm Wallop
Committee on Energy and Natural Resources
Senate Russell Office Building, Room 206
Washington, D.C. 20510

Dear Senator Wallop:
I am writing on behalf of two organizations from the Blackstone Valley; The Blackstone Valley Historical Society aad the Blackstone Valley Tourism Council.

Both organizations endorse S1374, the Blackstone River Valley National Heritage Corridor Act of 1986.

The importance of this area as the birthplace of the Industrial Revolution in America is unique in this nations history.

The river is still a very significant resource in this area, both for industry, commerce and now it is being discovered by tourists-who appreciate the Blackstone Canal, the mill villages along the river, with people living in them and not as sterile museums.

We therefore urge passage of S1374, so this area may be preserved before it is lost to future generations.

It is rather sad that a river which gave so much to us at one time in history and was known as "The hardist working river in the nation" is now struggling for its life.

Passage of S1374 will give it that life.

Sincerely yours,
Edwin B. McDermott
Edwin B. McDermott

GREATER WOONSOCKET CHAMBER OF COMMERCE

Greater Woonsocket Chamber of Commerce
P.O. Box 209 • Marquette Plaza • Woonsocket, R.I. 02895 • Tel. 401-762-1730

RECEIVED
APR
OFFICE
OF DIRECTOR

April 4, 1986

The Hon. Malcolm Wallop, Chairman
Committee on Energy and Natural Resources
Senate Russell Office Building, Room 206
Washington, D.C. 20510

Dear Senator Wallop:

I am writing in support of S1374, the Blackstone River Valley National Heritage Corridor Act of 1986. We take a great deal of pride in the fact that America's industrial revolution was born on the banks of the Blackstone, and want to take whatever steps necessary to preserve the sense of history for posterity.

Passage of S1374 will be the first step toward the revitalization of the area, encouraging private investment and joint public/private ventures too numerous to mention. The Blackstone River is our link not only to the past, but to the future.

I hope you will take these facts into consideration when hearings are held on April 11.

Sincerely,

Joan C. Verplanck

Joan C. Verplanck
Executive Vice President

JCV/ftp

Reference: JCV86-113

cc: Senator Claiborne Pell
Senator John Chafee

ACCREDITED

LAW OFFICES OF
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Tahoe City, California 95730-5339
TELEPHONE (916) 583-7268

THOMAS S. ARCHER
C. ANDERS HOLMER

LOUIS A. BASILE
GREGORY T. SHANLEY

April 8, 1986

Senator Malcolm Wallop
Senate Energy and Natural Resources Subcommittee
Room SD 358
Washington, D.C. 20510

Re: Senate Bill 1413
"Railroad Right-of-Way Conveyance Validation
Act of 1985"

Dear Senator Wallop:

I wish to introduce myself as representative of approximately 35 residents and property owners in the town of Truckee, Nevada County, California. I offer this correspondence and submittal requesting that it be made part of the record of the hearing with reference to Senate Bill 1413 now scheduled before your Committee on April 11, 1986.

Although not included in the present legislation before your Committee, my neighbors and clients are impacted and affected by the Bill inasmuch as we now have received commitment for the conveyance of right-of-way interests to owners and residents in our community. Of course, we shall be required to obtain the necessary validation and enactment by Congress.

We support the present legislation confirming conveyance of portions of right-of-way property by quitclaim deed to adjacent property owners, and we are extremely motivated and interested in initiating and enlisting Congressional support for conveyances in Truckee, California, which are directly similar to those and subject of Senate Bill 1413.

To summarize briefly, we have currently received written commitment from Southern Pacific Transportation Company, through its agent, for conveyance of right-of-way property to residential homeowners along a portion of East River Street in Truckee, California. The applicable quitclaim deeds are now in the hands of Southern Pacific Transportation Company for execution, return, and recording. Eighteen parcels of property are subject to these conveyances. Each conveyance is without consideration, and only a $250 administrative fee is being charged for each such conveyance, to reimburse the Railroad for administrative, engineering and survey costs.

Senator Malcolm Wallop
April 8, 1986
Page Two

For your reference, I enclose a photocopy of the presently confirmed quitclaim area. As you can see, the area for which conveyances are presently being made consists of approximately 0.955 acres. You may additionally note that a number of the lots and parcels within the quitclaim area are improved and that the claimed right-of-way dissects a number of the residences involved. Almost all of these properties have residences which were built prior to the turn of the century or in the early 1900's.

Additionally, I represent further owners along Donner Pass Road in Truckee for whom we have received initial approval of the same conveyance proposal which remains subject to further and final management approval. We are presently proceeding with this proposal and anticipate a hopeful resolution within the next few months. In this additional area, we find similar historic and older residences which are directly affected by the right-of-way. This further proposal calls for a quitclaim conveyance without consideration,and it appears that less than 1.0 acre is involved.

Since the title or a search of records reflect exceptions as to the rights of the Railroad and its right-of-way, individual owners find difficulty, if not impossibility, in obtaining home improvement loans, construction loans and/or loans necessary to refinance or sell their properties. Of course, this has a tremendous impact upon marketability of properties, and it has an additional deterrent effect upon individual repair, upkeep and preservation of our historic town.

The town of Truckee is a mountainous town approximately 15 miles north of Lake Tahoe, resting near the foot of the Donner Summit of the Sierra Nevada Mountains. The history and development of Truckee, as that of the original Transcontinental Line, is rich. Thousands of Chinese laborers were used to tunnel and forge their way through the Sierra Nevada to complete the final link of the original Line.

Simply, Truckee's growth astride that original Line was the natural and foreseeable consequence of the linking of the West to the balance of the country, and I'm certain the original Legislators were well aware and anticipated such growth of towns along the Railroad's path.

Once again, we wish to impart our support for the present legislation, and more importantly, we seek to apprise you of our existence and of the need for our area to receive similar Congressional enactment and validation of right-of-way conveyances. We sincerely believe that the interests of the individual residents and the public at large are well served by including us in the present or anticipated future legislation.

Thank you for your consideration.

Respectfully submitted,

THOMAS S. ARCHER

TSA/vll
encl.
cc: Congressman Norman Shumway
Jean Toohey, House Interior Committee

Southern Pacific